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**Deliberative Democracy and
Minority Inclusion in
Australia and New Zealand**

Helene Pristed Nielsen

SPIRIT PhD Series

Thesis no. 7

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Preface

Texts travel, and so have this one. This text is the product of a prolonged theoretical, methodological, and analytic journey on my part. Comparisons with first drafts speak about several obstacles overcome - although some undoubtedly remain. The present text is also the result of several geographical journeys. First of all, a move to Aalborg and the inspiring environment of *SPIRIT*, Aalborg University. Secondly, a journey half-way round the globe to collect data in Australia and New Zealand. Next, large parts of the text were written in the small Czech town of Sûmperk. And last but not least, several chapters and ideas travelled with me to conferences and seminars all over Denmark as well as outside of Denmark.

During these journeys the text has been shaped and I have been inspired by a series of invaluable comments and questions. While I cannot here possibly hope to thank everyone who has contributed to the work, several deserve special mentioning. First of all, my supervisor professor Ulf Hedetoft, as well as Staffan Zetterholm, Henrik Halkier and other regular critics and guests at our *SPIRIT* seminars. Secondly, I should like to extend a very warm thank you to professor Patricia Harris and Janice Dudley as well as all the others who made my time at Murdoch University, Perth, so rewarding. Also a special thanks to particularly Richard Hill and Charlotte Williams of the Stout Research Centre, Victoria University, Wellington for their help in providing me with contacts. Furthermore, I wish to thank all my respondents who agreed to spend some of their valuable time with me – without them, this project would not have been possible. For particular insightful comments and questions I should also like to thank Karen Bird of McMaster University, Christina Fiig of Aalborg University, Patti Lather of Ohio State University, Dietlind Stolle of Princeton University, as well as several others who have all provided comments on draft papers along the way.

Finally, I should like to thank Signe Knudsen, Marianne Dalgaard and Andreas Beck Holm for reading draft manuscripts and giving valuable comments and suggestions, Ann Sonne Svensson for making the models, and Julie Larsen from *SPIRIT* for helping me with the layout. While all remaining flaws are entirely my responsibility, this text would not have been possible without contributions from all those people already mentioned, as well as several others. Now, however, it is time to let this text

continue its journey without my immediate supervision. Hopefully it will travel to places where it can be a useful source of inspiration for others – whether academics or practioners working with issues of minority inclusion.

Til Henning vil jeg gerne sige tak for tålmodighed og opbakning, kritiske spørgsmål, godt humør og praktisk hjælp.

Helene Pristed Nielsen

Aalborg, December 2005

Dansk resumé

Det overordnede tema for indeværende Ph.D. afhandling er 'demokrati og inklusion af minoriteter'. For at belyse dette emne bedst muligt indeholder afhandlingens første del en bredere diskussion af forskellige traditionelle politisk filosofiske paradigmer inden for hvilke dette emne er blevet diskuteret. Debatten er her fremsat som i hovedtræk domineret af to filosofiske retninger; liberalisme og kommunitarisme. Synspunkterne fra to af hovedaktørerne inden for hver af disse retninger siden 1970'erne og frem til i dag er præsenteret i hhv. kapitel 3 og 4, nemlig for liberalismens vedkommende John Rawls og Will Kymlicka, og inden for kommunitarismen Charles Taylor og Michael Sandel. Ved at debattere disse to traditionelle retninger i forhold til hinanden hvad angår deres syn på eventuelle minoritetsrettigheder, og hvordan disse i givet fald skal kunne implementeres, nåes den konklusion at begge retninger forholder sig på en utilfredsstillende måde til virkeligheden, idet de ikke giver nogle særligt anvendelige praktiske retningslinier for hvorledes man eventuelt kan opnå en bedre beskyttelse af minoritetsrettigheder og –interesser inden for rammerne af den moderne demokratiske stat. I øvrigt argumenterer jeg også for, at de to retninger gradvist har nærmet sig hinanden hvad angår synet på disse spørgsmål, og at de derfor i nogen grad må betragtes som en falsk teoretisk dikotomi, der ikke leder til en kvalitativt bedre forståelse af hvad minoritetsrettigheder kan eller bør være.

I forsøget på at finde et brugbart alternativ, der også er omsætteligt til empirisk praksis, vender afhandlingen sig i stedet mod den såkaldte deliberative demokrati-model. Her er det på den ene side min påstand, at denne model tilbyder en normativt mere tilfredsstillende forståelse af hvorledes minoritetssynspunkter kan gøre sig gældende i en demokratisk debat. På den anden side anerkender jeg fuldt ud, at også Jürgen Habermas' model for den herredømmefrie dialog er svært omsættelig i praksis. Dog er hensigten med fremstillingen af denne model i kapitel 5 samtidig at gøre opmærksom på, at det via en kritisk læsning og stillingtagen til Habermas og nogle af hans efterfølgere (i dette lægges der særligt vægt på Seyla Benhabib og Iris Marion Young's synspunkter) er muligt at nærme sig nogle mere konkrete ideer til hvorledes en

deliberativ demokrati-model eventuelt ville kunne udfoldes i praksis. Dette spørgsmål fører til afhandlingens forskningsspørgsmål, som formuleres på følgende måde:

I hvilken udstrækning kan teorien om deliberativt demokrati bruges til at evaluere igangværende interaktionsprocesser mellem indfødte og majoritetsgrupper i Western Australia og New Zealand?

Nøglekapitlet til hele afhandlingen er kapitel 7, i hvilket en konkret analysemodel til brug på den indsamlede empiriske data søges udfærdiget. Denne model er dels bygget på Habermas' fire præmisser for den herredømmefrie dialog, og dels på forskellige indvendinger mod disse som udfoldet i løbet af kapitel 5. Konkret argumenterer jeg for, at Habermas' model og de fremførte indvendinger tilsammen peger på seks vigtige delelementer i den deliberative demokrati-model. Disse seks delelementer er hhv. adgang, lejlighed og evne for aktører til at fremsætte egne argumenter og lytte til andres ditto i en given debat om et emne af betydning for de i debatten involverede aktører. Dermed er tesen, at for at give en kvalitativ vurdering af indholdet i en konkret demokratisk debat, er det vigtigt at analysere forhold der påvirker aktørers adgang, lejlighed og evne til at fremsætte egne argumenter og lytte til andres argumenter. Dette giver i alt seks parametre til brug i en empirisk analyse af en demokratisk debat:

- Adgang til at udtrykke sin mening
- Lejlighed til at udtrykke sin mening
- Evne til at udtrykke sin mening
- Adgang til at lytte til andres meninger og eventuelt blive påvirket af dem
- Lejlighed til at lytte til andres meninger og eventuelt blive påvirket af dem
- Evne til at lytte til andres meninger og eventuelt blive påvirket af dem

Ud over disse seks parametre indeholder ovenstående liste en underforstået præmisse om at parterne rent faktisk er interesserede i at deltage i en demokratisk debat om emnet, hvilket i selve analysen i afhandlingens tredje del giver anledning til et kortere introducerende kapitel 10, i hvilket denne interesse fastslåes i forbindelse med afhandlingens konkrete undersøgelsesområde. Det er muligt at danne sig et overblik over de forskellige teoretiske parametre, de analytiske spørgsmål disse afføder, samt

hvilket empirisk materiale der foreslåes anvendt for at besvare spørgsmålene ved at studere tabel 7.1 i kapitel 7.

Inden den empiriske analyse gribes an i Part III, indeholder afhandlingen dog en kortere Part II, der behandler forskellige metodologiske spørgsmål i forbindelse med dataindsamling og analysemetode. I to forskellige kapitler om hhv. komparativ forskningsdesign og dataindsamling og –analysemetode beskrives og begrundes forskellige metodologiske valg i afhandlingen, for eksempel valget af Western Australia og New Zealand for komparationen, fokus på de indfødte grupper, brugen af kvalitative interviews og den åbne kodeprocess anvendt i analysen.

Hovedparten af afhandlingen er optaget af den empiriske analyse, der udgør cirka halvdelen af afhandlingens omfang. Denne del, 'Part III: Empirical findings', er systematiseret i henhold til modellen udviklet i kapitel 7. Dette betyder, at efter et kortere kapitel hvori parternes interesse i at deltage i demokratisk dialog slås fast, behandles de seks teoretiske parametre under overskrifterne 'adgang', 'lejlighed' og 'evne'. Analysen behandler både 'sende'- og 'modtage'-forhold inden for hver af disse overskrifter, hvilket medfører at alle de i alt syv analytiske spørgsmål stillet i tabel 7.1 besvares gennem en analyse af det foreslåede empiriske materiale.

For at skabe et bedre overblik over analysens progression, indledes hvert hovedkapitel i Part III med en model over hvilke forhold der søges belyst i det enkelte kapitel. Disse modeller er alle baseret på den nedenfor angivne basismodel, som er et forsøg på at visualisere forskellige forhold mellem hhv. enkelt-individer og grupper i samfundet, og mellem de beslutningstagende og medierende arenaer. Disse forhold er udledt af tabel 7.1, og i selve analysen beskrives og vurderes styrken af disse indbyrdes forhold, og deres påvirkning af kvaliteten af den demokratiske dialog i konkrete interaktionstilfælde mellem indfødte og majoritetsgrupper. Grundelementerne i modellen kan skitseres som følgende, hvor hvert element er at betragte som 'pladsholder' for forskellige mulige empiriske fakticiteter i forbindelse med konkrete demokratiske debatter:

BASIC MODEL



1. INDIVIDUALS

2. DECISION-MAKING ARENAS

3. COLLECTIVITIES

4. MEDIATING ARENAS

Som udgangspunkt er dette en meget abstrakt model, men det er netop også hensigten, idet der tilsigtes at udvikle en model der principielt set kan bruges til at evaluere alle former for demokratisk dialog mellem hvilke som helst interessegrupper og beslutningstagere om et hvilket som helst emne. Hvorledes man kan drage nytte af modellen søges så vist i de tre hovedkapitler i afhandlingens tredje del, under

overskrifterne 'adgang', 'lejlighed' og 'evne' til at deltage i demokratiske debatter. Ved at bruge specifikke eksempler fra oplevet interaktion genfortalt af respondenter, belyser jeg hvilke indbyrdes relationer mellem modellens elementer der kan have betydning for et positivt eller negativt oplevet udfald af en sådan interaktion.

Helt konkret drejer det sig for eksempel under spørgsmålet om adgang til at deltage i debatter og lytte til andres synspunkter bl.a. om at se på relationen mellem individet og den beslutningstagende arena – fremmer eller hindrer de institutionelle strukturer adgangen til at udtrykke sine interesser? Ligeledes er det muligt at undersøge 'systemets' gennemsigtighed overfor kollektiviteterne, dets åbenhed i forhold til de medierende arenaer (her primært medierne som sådan), samt hvorledes og hvorvidt de medierende arenaer i sig selv bidrager med en øget adgang for kollektiviteterne til at blive eksponeret for forskellige synspunkter. Det kan ikke afvises at andre mulige relationer mellem basismodellens grundelementer kunne have betydning for adgangen til deltagelse i de demokratiske debatter, men det er påstanden i kapitel 11, at disse er de vigtigste relationer at analysere i en kvalitativ vurdering af adgang til den demokratiske debat.

I stil med dette, argumenterer kapitel 12 for, at ideen om lejlighed til at deltage i en demokratisk interaktion på frugtbar vis kan forstås som en tidsmæssig relation. Dette betyder at fokus i kapitel 12 er på hhv. individets tidsmæssige investering i demokratisk deltagelse, samt kollektiviteters tidsforbrug på 'konsumering' af argumenter i en debat. Af metodologiske årsager er disse spørgsmål dog kun delvist besvaret gennem direkte data, som til gengæld er suppleret med indirekte parametre.

Slutteligt analyseres det i kapitel 13, hvorledes evnen til at debattere kan påvirke det kvalitative udfald af en demokratisk dialog. Her diskuteres ikke blot individuelle attributter såsom uddannelse, men også relationen mellem individet og kollektiviteten når det kommer til at overdrage for eksempel repræsentativ autoritet til en talsperson i en given debat. Desuden fokuseres der bredt på hvordan medierne og uddannelsessystemet i givet fald kan påvirke kollektiviteten mod en generelt mere dialogisk tilgang til beslutningsprocesser. Altså hvorvidt disse institutioner kan siges at have en opdragende funktion i et eksisterende demokrati der lægger vægt på meningsudveksling.

Samlet set betyder dette, at analysen fokuserer på en endog meget bred vifte af empiriske spørgsmål med henblik på at give en kvalitativ vurdering af faktiske demokratiske dialoger mellem indfødte og majoritetsgrupper i det western australske og new zealandske samfund. Den løbende komparation foretaget i afhandlingens kapitel 10-13 mellem disse to lokaliteter giver intet entydigt billede af, at debatten skulle forløbe på en generelt bedre måde det ene sted frem for det andet. For at give et bedre overblik over hver lokalitet efter tur, afsluttes Part III med et opsummerende kapitel 14, hvori resultaterne for hvert sted er syntetiseret, og en decideret geografisk komparation foretages. Med andre ord er det muligt at springe kapitlerne 10-13 over, hvis man blot er interesseret i et hurtigt resumé af debattens kvalitet hvert af disse to steder. Kort opridset, er konklusionen her bl.a. at debatten i Western Australia stadig synes at være påvirket af det faktum, at Aborigines kun har været borgere i det australske samfund siden 1968, og at de beslutningstagende arenaer derfor i nogen grad stadig er præget af visse 'begyndervanskeligheder' med at inddrage disse grupper på tilfredsstillende vis. Samtidig skal det dog tilføjes, at de lokale myndigheder såvel som visse aboriginale grupperinger i flere tilfælde udviser en betydelig grad af originalitet og innovation i forsøget på at forbedre det indbyrdes forhold. I New Zealand, derimod, er inddragelsen af maorierne i langt højere grad en institutionaliseret del af det politiske beslutningstagningssystem. Dette har positive konsekvenser for omfanget af maori inddragelse i politiske debatter og beslutningsprocesser, men samtidig sporer analysen delvist en 'systemets inert', således at forstå, at visse procedurer fastlåses til hindring for en yderligere kvalitativ forbedring af den demokratiske debat. Disse observationer udgør tilsammen en foreløbig konklusion på afhandlingens empiriske del.

Afhandlingens sidste del, Part IV, behandler to hovedspørgsmål med henblik på at konkludere på den forskningsmæssige problemformulering om den deliberative demokrati-models anvendelighed på et empirisk studie af demokratiske interaktionsprocesser. Først og fremmest diskuteres det i kapitel 15, hvorvidt eksemplerne fra Western Australia og New Zealand kan siges at leve op til en idealforestilling om demokratisk interaktion. Dernæst diskuteres det i kapitel 16, om en sådan idealforestilling overhovedet har nogen relevans for et empirisk studie, og om vi i givet fald kan og bør revidere normative politiske teorier på baggrund af empiriske analyser. Eller om vi i modsat fald er bedre tjent med en 'ren' normativ teori, der kan

fungere som målestok for udfoldelse af et ideal om demokrati på en politisk og etisk forsvarlig måde. Afhandlingen som helhed peger på en lang række empiriske faktorer, der næppe ville have været indlysende at medtage for den rent teoretisk tænkende politiske filosof. Og selvom man løber den risiko i for høj grad at instrumentalisere en normativ teori, tyder alle de empiriske resultater på, at i praksis har aktører i demokratiske debatter netop brug for en højt konkretiseret model for interaktion. Dette betyder imidlertid *ikke*, at empiriske erfaringer ikke kan vinde ved at blive sammenholdt med et teoretisk ideal.

English summary

The overall framework for this Ph.D. dissertation is ‘democracy and minority inclusion’. To shed the best possible light on this topic, the first part of the study contains a broad discussion of different traditional paradigms within political philosophy under which the theme has been discussed. The debate is presented as dominated by two philosophical streams, namely liberalism and communitarianism. In respectively chapters 3 and 4, two main proponents and their views on the issue of minority inclusion are presented within each camp – in the case of liberalism the standpoints of John Rawls and Will Kymlicka are debated, and communitarianism is represented through the views of Charles Taylor and Michael Sandel. Debating these two traditional streams in relation to each other on the question of democracy and minority inclusion and the possible implementation of ‘minority rights’, leads to the conclusion that both camps relate in an unsatisfactory way to empirical reality, because neither gives any applicable practical guidelines for how it is possible to obtain better protection of minority rights and interests within actually existing democratic states. In addition, it is also argued that the two camps have gradually approached each other on these questions, and therefore constitute a false theoretical dichotomy which shows no sign of leading to qualitative progress.

In an attempt to find an applicable alternative which is transferable to empirical praxis, attention is turned to the model of deliberative democracy. On the one hand, this model offers a normatively more appealing understanding of how minority viewpoints can impact on democratic debates. On the other hand, the study fully recognises that Jürgen Habermas’ model for the masterless dialogue is hard to convert to empirical praxis. However, the impetus for the presentation of the model of deliberative democracy in chapter 5 is to draw attention to the fact that a critical reading of Habermas and some of his followers (particular emphasis is put on the work of Seyla Benhabib and Iris Marion Young) can generate concrete ideas to how deliberative democracy in some form might unfold in practice. The precise research question emerging from these considerations is formulated in the following way:

To what extent can the theory of deliberative democracy be used as a template to evaluate ongoing processes of interaction between Indigenous and mainstream groups in Western Australia and New Zealand?

The key to the entire dissertation is to be found in chapter 7, where a concrete model for analysis is developed to be used on the collected empirical data. This model is partly based on Habermas' four premisses for the masterless dialogue, and partly on the various reservations against these as discussed in chapter 5. Concretely, Habermas' model and the reservations made against it together point to six important elements within the model of deliberative democracy. These six elements are access, opportunity, and ability for stakeholders to express points of view and listen to other points of view in any given debate of interest to the involved parties. To give a qualitative assessment of the content of a concrete democratic debate it is therefore important to analyse which factors impact on stakeholder access, opportunity, and ability to express points of view, and, concurrently, which factors impact on their exposure to points of view. In short, this results in six parameters to be used in an empirical investigation of a democratic debate:

- Access to express one's point of view
- Opportunity to express one's point of view
- Ability to express one's point of view
- Access to listen to other viewpoints and possibly be influenced by them
- Opportunity to listen to other viewpoints and possibly be influenced by them
- Ability to listen to other viewpoints and possibly be influenced by them

Besides these six parameters, the list above contains an implied premiss that the parties are indeed interested in participating in democratic debate. This question is dealt with in chapter 10, which serves as an introductory chapter to the empirical analyses presented in Part III. This chapter establishes that in the two settings under investigation in this study, the parties are in fact generally interested in participating in democratic dialogue with each other. It is possible to gain an overview over the various theoretical parameters, the analytic questions these give rise to, and the suggested empirical material employed to answer these questions by taking a look at Table 7.1 in chapter 7.

Before embarking on the empirical analysis in Part III, the dissertation contains a shorter Part II, which deals with various methodological questions related to data collection and analysis. This section contains two chapters on respectively comparative research design and data collection and methods for analysis. The methodological choices made within the dissertation are described and argued for, such as for example the choice of Western Australia and New Zealand as settings for the comparison, focus on Indigenous participation, the use of open ended qualitative interviews, and the open coding method used in the analysis of interview data.

The largest part of the dissertation is taken up by the empirical analyses, covering roughly half of the study in a section entitled ‘Part III: Empirical findings’. This part is systematised according to the model developed in chapter 7. This means that after a short introductory chapter establishing interest in democratic dialogue among the parties, the six theoretical parameters are each analysed in turn under the headings of ‘access’, ‘opportunity’, and ‘ability’. The analysis deals with both sending and receiving relationships under each of these headlines, which means that each of the in total seven analytic questions posed in Table 7.1 are answered through analyses of the suggested empirical material from the same table.

To create a clearer sense of the progression of the analysis, each main chapter within Part III opens with a model illustrating the relationships under investigation in this particular chapter. These models are all based on the basic model illustrated below, which is an effort to visualise the various relationships between respectively individual actors and groups in society, as well as the relationships between sending and receiving messages. These relationships are based on Table 7.1; and as the analysis progresses, they are described and assessed according to how they impact on the quality of the democratic debate occurring in concrete examples of interaction between Indigenous and mainstream groups. The basic elements of the model are illustrated below, and each element is to be regarded as ‘placeholder’ for various possible empirical facts in relation to concrete democratic debates:

BASIC MODEL



1. INDIVIDUALS

2. DECISION-MAKING ARENAS

3. COLLECTIVITIES

4. MEDIATING ARENAS

The intention with this illustration is to develop a model which in principle can be applied in an evaluation of all forms of democratic dialogue between any interest groups and decision-makers on any subject. The usefulness of this model is demonstrated in the three main chapters of the third part of the study. Through the use of specific examples of experienced interaction related by respondents, light is shed on which internal

relations between the elements of this model can impact on such interaction in a positive or negative manner.

Concretely, this means that concerning the question of access to participation in debates, it is important to look at the relationship between the individual and the arenas for decision-making and debate. One can ask whether existing institutional structures contribute to or hinder access to expressing opinions. In addition to this, it is possible to investigate whether 'the system' displays openness towards the mediating arenas (here primarily the media as such), whether it appears transparent to the collectivities, and whether and how the mediating arenas in themselves provide more general access for the collectivity to be exposed to various opinions and points of view. It is possible that other relations between the basic elements of this model may also affect issues of access to democratic debates. However, chapter 11 argues that these relations are the most important ones in terms of giving a qualitative assessment of access to a given democratic debate.

Likewise, chapter 12 argues that the notion of opportunity to participate in debates can fruitfully be understood as a temporal relation. This means that focus in chapter 12 is on individual investment of time to participate in democratic debates, as well as on collective investment of time in 'consuming' arguments in a debate. Methodological limitations in data mean that these questions are only partially answered through a direct application of data, which is supplemented by various forms of indirect evidence on these points.

Finally, chapter 13 analyses how ability to debate can affect the qualitative outcome of a democratic dialogue. Individual attributes such as education are discussed, but also the relation between individuals and collectivities in cases of conferring authority on a spokesperson or leader in a given debate. In addition, chapter 13 contains a broader look at how the media and the educational system in both settings under investigation influence the collectivity towards a more dialogical approach to decision-making processes. It is discussed whether these institutions can be argued to hold an educating function in terms of encouraging dialogical exchange between groups in actually existing democracies valuing such exchange.

In total, this means that the analysis in itself focuses on a very broad spectre of empirical questions in order to give a qualitative assessment of democratic dialogues

between Indigenous and mainstream groups in Western Australia and New Zealand. Chapters 10 through 13 are organised as a running comparison between these two settings, and this gives no clear picture that the debate is qualitatively better in one place rather than the other. To give a better overview over the state of affairs in each location in turn, Part III ends with a summary chapter 14, in which the analytic results are synthesised and a specific geographic comparison is undertaken. In other words, it is possible to skip chapters 10-13 if one's interest lies merely in getting a quick summary of the quality of the democratic debate in these two settings. One conclusion is that the state of affairs in Western Australia still is somewhat affected by the fact that Aboriginals became citizens as late as 1968, and the decision-making authorities still have some difficulties in communicating with this segment of the population in a confident manner. At the same time, however, it also deserves mentioning that local authorities as well as certain Aboriginal groups in several instances show a remarkable degree of innovation in the attempt to improve the mutual relationship. In New Zealand, Maori involvement in decision-making processes is to a far greater extent an institutionalised part of the political system. This has positive consequences for the extent of Maori inclusion in political debates and decision-making, but at the same time the analysis indicates a certain degree of systemic inertia, in the sense that some procedures fossilise at the expense of qualitative improvement of the democratic debate. These observations together make up the preliminary conclusion to the empirical aspects of the dissertation.

The final part of the dissertation, Part IV, takes up two major questions to be answered in relation to the research question about whether the model of deliberative democracy is applicable in an empirical study of democratic interaction processes. Firstly, chapter 15 discusses whether cases from Western Australia and New Zealand can be said to live up to an ideal of democratic interaction. Secondly, chapter 16 discusses whether such an ideal has any relevance to an empirical study, and, if so, whether we can and should revise normative political theories on the basis of empirical evidence. Or, alternatively, whether we are better served with a purely normative theory, which can be used as a yardstick for practicing democracy in a politically and ethically defensible way. The study as a whole points to a series of factors that would hardly be self-evident for a purely theoretical thinker. And even if one runs the risk of

grossly instrumentalising a normative theory, all empirical evidence suggests that in practice actors in democratic debates do require a highly concretised model for interaction. However, this does emphatically not mean that empirical experience cannot gain from comparison with a theoretical ideal.

Chapter 1: Introduction

An increasing number of Western democratic states (as well as several non-Western ones) find themselves confronted by the reality of having to accommodate many and very varied groups of people who for various reasons consider themselves as having special group interests or preferences that differ from those of the majority culture. In such cases, the core democratic principle of ‘one person one vote’ entails a danger of creating permanent minorities who risk having their interests disregarded by what Tocqueville termed ‘the tyranny of the majority’. While talk about a departure from the ‘one person one vote’ principle would likely ring alarm bells with many politicians and citizens, questions of democracy and minority inclusion have ranked high on the research agenda of many academics for years, and - as this study will show - neither are democratic experiments in actually existing democracies experiencing such challenges unheard of.

Many theoretical approaches to how to ensure minority inclusion within democracies have been developed over time. In this study I review two major strands within political philosophy with regard to the possibility for minority inclusion. These are liberalism and communitarianism. The first half of Part I concludes that within the last couple of decades, these two theoretical approaches have come to resemble each other to a large extent, without producing any workable guidelines for how to include minority interests in democracies in practice. Searching for an alternative, but remaining within a philosophical perspective, the study turns to the concept of deliberative democracy.

‘Deliberative democracy’ has within approximately the last one and a half decade become a highly acclaimed concept with philosophers and political scientists alike. But while theoretical writings on the subject abound, it is also commonly acknowledged that empirical evidence of how such an ideal might be played out in practice is sorely lacking. Can such normative theories be translated into models that are empirically applicable? And would such a translation be relevant and constructive in assessing an empirical situation? The present research project aims to undertake this exercise of translating a normative theory into an empirically applicable model. With the aid of qualitative data on ongoing processes of interaction between Indigenous and

mainstream groups in Western Australia and New Zealand, an answer to the following question is sought.

To what extent can the theory of deliberative democracy be used as a template to evaluate ongoing processes of interaction between Indigenous and mainstream groups in Western Australia and New Zealand?

An answer to the question of whether deliberative democracy works in practice is thus sought within two specific geographical settings, and an assessment is made of whether anything can be gained from applying a normative ideal to an empirical case. At a more abstract level, the question is the fundamental one of whether normative theories of democracy can have more than a tangential relationship with empirical reality within actually existing democracies.

Posing such research questions has the immediate side-effect of producing an array of related questions of a theoretical, methodological, and practical nature that need to be dealt with if a conclusive answer is to be found. The theoretical questions will be considered in Part I, where a presentation and discussion of the theory of deliberative democracy follows the review of theories of liberalism and communitarianism. Part I ends with a key chapter 7, in which the initial steps for a translation between theory and practice are made. This chapter is intended to facilitate an answer to the central question of whether normative theories can hold more than a tangential relationship with empirical reality.

I have frequently been asked why I have chosen Australia and New Zealand as the setting for investigating such possibly deliberative practices. The answer to this and a series of other related methodological questions can be found in Part II. In brief, the reason is that these two countries are both products of British colonialism and as such have certain traits in common, among those a largely Anglo-Saxon majority culture and more or less adopted British political culture, while they at the same time are home to many minority groups – both immigrant and Indigenous ones. While ideally I would have liked to focus on both types of groups, priority has here been given to the Indigenous cultures, based on a logic of ‘most different’ in terms of political and leadership culture.

The central part of this study is taken up by Part III, which contains the analyses of the wide range of data obtained for this project. Divided into four major parts on interest, access, opportunity, and ability to partake in debates, it presents data and interpretations of data along these four parameters, which in the key chapter 7 are identified as the major theoretical variables one would have to look at when assessing whether deliberative democracy can work in practice. What emerges from the analysis is the fact that several quite instrumental factors play a role for respondent experience of successful interaction or lack thereof. While the normative theory of deliberative democracy is in many respects rather abstract, respondents put a lot of emphasis on the nuts and bolts of everyday communication and contact between groups as keys to reaching success.

This compares well with comments made by various theorists about the ‘missing link’ between the theory and practice of deliberative democracy. Habermas in one of his more recent works has posed the question thus

...one can still ask whether and, if so, how the discursive social relations assumed for an association of free and equal citizens, and hence the self-organization of the legal community, are at all possible under the conditions for the reproduction of a complex society [...] it is important to operationalize the procedural core of democracy at the right level [...] the ideal content of practical reason takes a pragmatic shape; the realization of the system of rights is measured by the forms in which this content is institutionalized (Habermas 1996: 302).

Williams seconds him in asking whether a genuinely deliberative politics of difference is possible; ‘The short answer is that it is *not impossible*, but that we need to know a great deal more about the institutional forms that can realise it and the social and historical circumstances which can motivate the powerful to engage in it’ (Williams 1999: 71). These are exactly the challenges taken up in the present study. First of all, Habermas’ challenge of operationalising the procedural core of democracy – in this case interpreting ‘the right level’ as one that will allow for minority inclusion. And then, (staying true to the pragmatic shape of the practical reasons laid out by respondents) searching for answers to how the institutional forms of society can realise the content of this democratic ideal. As Williams suspects, social and historical circumstances do indeed play a role in motivating both the powerful and not-so-powerful parties to engage. While I agree with Habermas that ‘There can be no question of a conclusive empirical evaluation of the mutual influence that politics and the public have on each

other' (Habermas 1996: 380), several surprising results and partial conclusions can be found in Part III. For those not interested in the long story, a short summary of empirical results appears in chapter 14.

Finally, in Part IV, a series of concluding remarks are made. First of all, chapter 15 answers the above research question about the extent to which engagement practices between Indigenous and mainstream groups in Western Australia and New Zealand can be said to live up to a deliberative democratic ideal, and whether these two minority groups are indeed included in decision-making processes in their respective areas of residence. Can we plausibly speak of enacting an ideal? Finally, chapter 16 contains an evaluation of the 'fit' between theory and reality. In one way, the relationship does indeed seem tangential. Nowhere does Habermas for example consider that radio might be a more appropriate medium to reach illiterate groups than newspapers, or that Maori tribes might prefer meeting on their marae to solve grievances rather than in 'The Orange Ballroom' at the Intercontinental Hotel in Auckland. Nor, however, is this Habermas' aim. On the other hand, it does transpire that theories of deliberative democracy have indeed inspired Western Australian government officials to develop a series of guidelines for 'consulting citizens'. So while in many ways not directly applicable, I conclude that the theory can at least inspire various practices of engagement between minority and majority interests in democratic societies.

Part I: Theoretical Framework

The purpose of Part I is to develop a theoretical framework within which to investigate two cases of majority/minority interaction between respectively the Indigenous populations of Australia and New Zealand and their majority counterparts. To this end, contemporary theories of minority rights will be evaluated in terms of to what extent they can be regarded as providing a workable set of theoretical guidelines under which to conduct a case study of democratic influence for the Indigenous minorities in Western Australia and New Zealand. The theories under consideration are communitarianism, liberalism, and deliberative democracy. Before turning to the issue of possible rights for such minorities, it is necessary first to define the word ‘minority’ – this is done in chapter 2. Part I ends with two chapters each giving directions for the remainder of the work, namely chapter 6 debating central concepts of importance for the rest of the thesis, and chapter 7 detailing the model for analysis to be used in Part III, where the collected empirical evidence is analysed.

Chapter 2: The concept of minorities

‘When *I* use a word’, Humpty Dumpty said in a rather scornful tone,
‘it means just what I choose it to mean, neither more nor less’
(Lewis Carroll, *Alice’s Adventures in Wonderland*, 1865, chapter 6)¹

The Geneva Convention from 1948 is responsible for having firmly established the concept of ‘human rights’ within international judicial discourse. This original UN charter has since then formed the basis of not only a number of UN resolutions and international political and military decisions, but it has also formed the backbone of a whole range of rights debates within international law. As Thornberry states in his book *International Law and the Rights of Minorities*, ‘human rights’ has become a fashion term worn by the well-dressed lawyers (Thornberry 1991: 6).

But it is not only the lawyers who have seized on this concept. Also a wide number of various groupings within international and national settings have utilised the term. The idea of a set of inalienable human rights has inspired various minority groupings to talk about special group rights or minority rights. A full account of this debate as it is currently raging within the UN system will not be given here – both to avoid judicial niceties, but also because this debate is currently at a stalemate and not very productive in terms of producing results that are applicable to any national setting. Empirical evidence presented in Part III will confirm this. I will, however, very briefly dip into this debate to make a few important theoretical definitions, because legal experts seem to be particularly apt at drawing fine distinctions. The first important distinction to make here is between ‘groups’ and ‘minorities’. While groups may not be numerically inferior in their various national settings, minorities are by definition so.

[A minority is] a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religion or language (Capotorti in Thornberry 1991: 6)

While this definition undoubtedly leaves many other conceptual doors open – for example ‘state’, ‘ethnic, religious or linguistic characteristics’ etc. – it is a sufficient definition to apply to the present case study of the Maori and Aboriginal populations in

¹ Quoted in (Thornberry 2002: 33).

respectively New Zealand and Australia. These two countries are both recognised as states within international law, and while there are individual differences, many people in each of the countries define themselves as belonging to these Indigenous groups, and *do* express a wish to preserve their culture and traditions, however they individually define them. Self-ascription in relation to ethnic membership will carry great weight in this study. This is the best solution to overcoming problems of ascriptive ethnicity and the possible discrimination inherent in such a move.

Using self-description as the basis for a definition of ethnicity is also an acknowledged standard within much international legal debate. The International Labour Organisation (ILO), with its Resolution 107 from 1957, currently provides the most extensive binding legal framework for the protection of minority rights – including Indigenous rights. Martinez-Cobo, working for the ILO, has defined Indigeneity at the individual level thus, ‘On an individual basis, an indigenous person is one who belongs to those indigenous populations through self-identification as indigenous [...] and is recognised and accepted by those populations as one of its members’ (Martinez-Cobo in Thornberry 1991: 343).

This quote underlines a need to distinguish between minorities in general and Indigenous groups in particular. Thornberry defines as ‘Indigenous’ those groups affected by the last 500 years of colonisation. I.e. it is those groups who have become a minority in their original country of habitation due to a wave of (primarily European) settlement from the late 15th century onwards. This includes the cases of Maori and Aboriginals, with Australia having been settled by the first fleet in 1788 (Western Australia saw its first white settlers in 1829), and the gradual settlement of New Zealand primarily after the 1830s. Maori themselves arrived in New Zealand probably around the year 1350², but while historians and archeologists debate to what extent the country was populated prior to that, there is no doubt that the original population was either wiped out or completely assimilated with the Maori population.

The Draft Declaration of Indigenous Rights has been circulating in the UN system since the mid-1980s without coming to any final sign off, and does not seem to provide much hope in terms of supplying any long term solution to possible problems of

² This date and the historical circumstances are highly controversial, but here I base myself on Philips et al., 1995 [1990]. See also the online New Zealand Encyclopedia, accessed on July 6th 2005. www.teara.govt.nz/NewZealanders/MaoriNewZealanders/WhenWasNewZealandFirstSettled

minority rights. As Thornberry repeatedly points out, all existing legal documents within the area are regarded as temporary measures to be absolved once integration has occurred. Thornberry finds this highly problematic and writes

The respect for indigenous culture is then a respect for a transitional phenomenon, a respect for a cultural stage of mankind, which is to disappear, to be replaced by a 'higher' culture. This attitude appears less like 'respect' for indigenous culture than simple recognition that it exists and is inherently undesirable (Thornberry 1991: 350).

As empirical evidence suggests that Indigenous culture is much more than a 'transitional phenomenon', this means that while the judicial discourse may be used for making conceptual definitions, it holds little promise for developing a model for minority inclusion. To this end, it is much more promising to look at recent political theory and normative philosophy, where writings on the subject of minority rights abound. The following debate in chapters 3 and 4 will focus on two subsets of normative theories. The traditional division within the debate runs along the dichotomy of liberals versus communitarians. It may be questioned whether these two approaches really are as radically different as much philosophical literature would have them be, but for the sake of convenience their supposed opposition will be the driving logic of the argument for now, as this will provide a better overview of current positions within the debate. It will provide insight into the type of arguments used within the normative debate for and against according minority rights, which will facilitate a comparison with the *de facto* democratic debate taking place within the two settings under investigation.

Chapter 3: Liberal approaches to minority rights

Liberalism is the first general political theory within which minority rights will be discussed. Focus is on recent contributions to the liberal debate on this topic. First on the agenda is the position of John Rawls, which is often taken to be the epitome of a comprehensive liberal theory, also including arguments about minority rights. This position is compared with Will Kymlicka's, which by many minority rights advocates is seen as a refinement of the liberal position, whereas other traditionally individualist-based rights liberals see it as a distortion of liberal ideals. Either way, Kymlicka's ideas have certainly been very influential in the normative debate, as have the views of Rawls. It should be stressed that focus will merely be on those aspects of Rawls and Kymlicka's theories which bear relevance for the topic of democracy and minority inclusion. Thus the following is not a comprehensive overview of either of their authorships.

3.1 John Rawls

John Rawls' book *A Theory of Justice* from 1971³ (revised in 1993) is an attempt to create a coherent liberal theory of justice in society from a basic level. Focus in this presentation of Rawls' position is on those aspects of *A Theory of Justice* which exemplify the prototypical liberal view often opposed by communitarians; furthermore, I will show how the theory impacts on Rawls' more recently published views on minority rights.

Rawls' starting point for developing a theory of justice is what he terms 'the veil of ignorance' (see Rawls 1999a: 118-123). This 'veil of ignorance' symbolises the idea that one can imagine a society in an original foundational position, in which we are to choose what is just and fair. To do so, it is necessary that individual members of society do not in advance know their position within the overall society, only that they will have to abide by its rules. Rawls himself describes the veil and the reason for introducing it in the following way:

³ I shall in the following be referring to John Rawls, *A Theory of Justice*, revised edition, Oxford University Press, 1999a

Somehow we must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage. Now in order to do this I assume that the parties are situated behind a veil of ignorance. They do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations (Rawls 1999a: 118).

- That is, they shall set up a system of justice and social distribution prior to knowing whether they themselves will be part of the majority or belong to a disadvantaged minority; without knowing their possible preferences or even their conception of the good life. In this way Rawls attempts to override any egoistical deliberations and ensures that attitudes such as for example racism will be highly irrational. This thought experiment is meant to illuminate which concerns would go into designing a just society for all groups, including minorities. With the veil of ignorance in place, we can leave the determination of just principles for society to real people of flesh and blood, rather than assume that they are angels or saints. This also means that any principles of justice agreed upon will be universally applicable to all members of society. Some have criticised Rawls for this, claiming that universalism runs counter to minority interests, because universalism per definition rules out the validity of dissenting viewpoints. However, Rawls' theory aims to describe the founding principles of a just society, not principles for rectifying a society that has already run off the track, so to speak. Affirmative action programs for African-Americans would hardly have been necessary if America had in fact been founded by a constitutional assembly acting under a veil of ignorance, however implausible such a scenario is. In that sense, one can ask whether it is just for minority rights advocates to criticise Rawls for not leaving enough room for differential treatment; but simultaneously the question arises what we can in fact use Rawls' theory for, if not for attempting to rectify current wrongs.

On the basis of the original position, Rawls derives two principles on which to found society. The first principle is that each person is to have an equal right to the most extensive system of personal liberties compatible with a similar system of liberties for all. Such liberties could for example be freedom of speech, religion and other freedoms; but they can only be exercised insofar as they do not impinge on the similar freedoms of others. The second principle is that social and economic inequalities are permissible, but only insofar as they are arranged to be to the greatest benefit of the least advantaged in society, and that (public) offices are open to all under conditions of equal opportunity.

This provision of permissible inequality is built into the theory to secure an element of competition and incitement to progress, while at the same time attempting to secure social justice for everyone (cf. Mautner 1997).

Thus the first principle is concerned with individual liberal rights, and Rawls says that these rights in cases of conflict should have priority over the rights based on the second principle, which he terms the ‘difference principle’. In this way, there is what he calls a ‘lexical’ priority of the first principle over the second one, which means that the terms of the first principle should always be fully complied with *before* turning to the content of the second principle. Consequently, individual freedom is non-negotiable - even in cases where a limitation might further for example increased possibility of access to attractive positions for some otherwise disadvantaged groups. From the point of view of minority rights, often conceptualised in terms of group rights, the question then seems to arise whether such group rights would not come into conflict with the individually based rights accorded moral priority by Rawls.

The most basic idea in Rawls’ conception of justice is that all primary social goods should be distributed equally, *unless* an unequal distribution is to the benefit of all or to the least advantaged in society (cf. Rawls 1999a: 54). On the face of it, this sounds like an argument in favour of according group/minority rights to the extent that these are aiming for an unequal distribution of certain values. Whether it is in reality so, however, is questionable in light of Rawls’ lexical priority of individual freedom over the difference principle. To return to the example above, individual freedom cannot be limited even in cases where it would facilitate access to socially attractive positions for otherwise disadvantaged individuals – which is a downright rejection of affirmative action programs and their likes. A schematic rendering of Rawls’ argument would be⁴:

⁴ This rendering is based on Rawls’ own account (1999a: 53-54) plus the summary in Lübcke 1998: 276.

1st principle: all persons are entitled to an extended system of liberties and freedoms compatible with equal liberties and freedoms for others.

2nd principle: social and economic inequalities are permissible insofar as they a) are to the greater benefit of the least advantaged and b) are attached to positions equally obtainable for all.

These principles are in turn ordered according to two rules of priority:

1st rule of priority: a) less freedom for individuals can only be just if it strengthens the overall freedom of all and b) this less equal freedom must be acceptable for those deprived of this extended freedom.

2nd rule of priority: the acceptance of the deprived (b) above) has priority over the unequal distribution of freedom (a) above).

In this way, Rawls has substantially accounted for his principles of justice and their mutual priority. Infringements on the first principle cannot be justified by a better outcome under the second one (Rawls 1999a: 52-53). To sum it all up in some of Rawls' own opening words: 'Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override' (Rawls 1999a: 3). The aim of social justice, and hence of Rawls' theory of justice, is to secure everyone an equal starting point. The question then remains how this would affect his view on minorities and their rights within society. At a basic level, it is possible to schematise Rawls' conception of justice as based on three main premisses:

- Pluralism with regard to ideas about the good life
- Egalitarianism with regard to interests and opportunities
- Universalism with regard to applicability of theory

With the exception of the third premiss here, this starting point does on the face of it seem highly conducive of minority rights, in the sense that allowing for a plurality of views on the good life and promoting egalitarianism for differing interests would be an objective for minority groups struggling to have their views recognised. Universalism, however, is regarded with scepticism by many minority rights advocates, because

universalism allows no room for dissension. In the words of Charles Taylor, liberalism is a particularism masquerading as the universal (Taylor 1995: 237).

What minority rights advocates in general - and those of the communitarian camp in particular - object to in Rawls' theory, is his insistence on the priority of principle 1 over 2. In other words, they object to his rule of priority that the limitation of freedom for individuals can only be just if it furthers the overall freedom for individuals, and that the acceptance of the deprived has priority over the unequal distribution of freedom. There has certainly been a heavy critique of Rawls, mainly from the communitarian camp. The main point of criticism, and the main bone of contention between the liberal and the communitarian camp in general, is the notion of the individual. Whereas liberals typically stress individual liberty and freedom, as does Rawls with his two rules of priority, communitarians typically stress the fact that individuals are part of a larger society, a notion often referred to as the 'embedded self'. Rawls does not deny that society has a shaping impact on individuals, he only claims that substantive decisions about the good life should be left to individuals to decide, rather than be dictated by society.

As such, one can say that Rawls' theory is based on a special 'anthropology' or view of man. As opposed to the utilitarian view of individuals as passive bearers of interests, Rawls depicts persons as always standing in relation to their own interests and being able to modify interests and preferences according to legitimate demands and expectations. It is constitutive of personhood to be able to form interests that relate to the legitimate expectations of the surrounding society, which in a roundabout way implies an implicit claim of the autonomy of deliberating persons. Hence Rawls takes account of what he terms 'the separatedness of persons', in the sense that he allows for value pluralism. Rawls' conception of the just society is value neutral in terms of conceptions of the good life. Such decisions are to be left to autonomously deliberating rational stakeholders. In this way, Rawls' does not downright reject the communitarian insight that we are embedded in particular societies, he only stresses that this does not rule out the possibility of individual decisions about values and preferences.

A further possible point of criticism, this time not necessarily from the communitarian camp, relates to my questioning above whether Rawls' claim to universality is conducive to minority rights: Is this theory at all applicable to non-

Western societies with no liberal tradition? This is a question recently addressed by Rawls himself, and he states that whereas his standpoint as such has not changed after 1971, his claim to comprehensiveness has. He has thus moderately revised his theory, and in *Political Liberalism* (Rawls 1993) he says that the theory is only addressed to individuals already embedded in the Western liberal tradition. In more recent contributions to the political debate, Rawls has tried to deal more specifically with the current fact of value pluralism. In *The Law of Peoples* (Rawls 1999b), he states that reasonable societies are necessarily plural (Rawls 1999b: 12). These ‘reasonable societies’ are to be distinguished from those he terms ‘outlaw states’, about which he claims no normative statements concerning rights can be made. In *The Law of Peoples* he places particular emphasis on liberal societies as being the most fair among the decent societies, and in line with his earlier work stresses that such societies are fair because they do not contain normative views on the good life: ‘a liberal society with a constitutional regime does not, *as a liberal society*, have a *comprehensive* conception of the good. Only the citizen and associations within the civic society in the domestic case have such conceptions’ (Rawls 1999b: 34, original emphasis).

However, this does not abate the voice of criticism from Seyla Benhabib, who states that ‘[...] I argue that Rawls’ Law of Peoples is state-centric and cannot do justice either sociologically or normatively to questions raised by border-crossings’ (Behabib 2004: 72), and she argues further that Rawls ignores the existence of Indigenous peoples (Benhabib 2004: 84). Agreeing with Benhabib that Rawls’ theory does not take sufficient account of what she terms the ‘porousness of borders’, I return to her position in chapter 5 below. Even if Rawls has limited the scope of his formerly universal claim for justice as fairness to now only including traditionally liberal societies, the question remains whether this limitation even matters for the two cases at hand? One can hardly describe pre-colonial Maori and Aboriginal society as liberal in Rawls’ sense of the term, but even so, these minorities presently live under and attempt to gain rights from societies and governments that fall under Rawls’ category of ‘reasonable societies’.

3.2 Will Kymlicka

Another figure on the liberal scene when it comes to discussions of minority rights, is the Canadian philosopher Will Kymlicka. It should be noted here that some object to placing Kymlicka among the liberals, as he in some respects has greater affinities with the communitarian camp. But Kymlicka defines himself as writing from a liberal standpoint, and hence he will be discussed in this context. This tension may be seen reflected in the title as well as in the content of one of Kymlicka's books *Liberalism, Community and Culture* (Kymlicka 1989), in which he says in the introduction that the book is written for two reasons: discomfort with communitarianism and discomfort with liberal disdain for minority rights. As opposed to Rawls, Kymlicka has not attempted to develop a comprehensive liberal doctrine, he has rather focused specifically on the questions raised by the minority rights debate. In this way he has made significant contributions to the debate through a number of published and edited works on the theme.

While still remaining within an overall liberal framework, Kymlicka has for example attacked the traditional liberal notion of the neutrality of the liberal state, which he claims is and has always been an illusion. For one thing, a (any) liberal state has to decide on a language (or more languages) in which to conduct its everyday proceedings. In this choice lies a significant value shaping potential, which might have profound effects on minority communities within the state, as non-native speakers of the chosen language face potentially devastating alienation from the state apparatus. Other examples that liberal states do not display value neutrality include distinctions between the status of citizens vs. non-citizens, cultural assumptions such as the timing of holidays, and more mundane examples like the fact that many supposedly liberal states place taxes on gambling, whereas there will often be state subsidies for opera (see Mulhall and Swift 1992). These are clear examples of anything but value neutrality. Having thus punctured the traditional liberal myth of state neutrality as a reason to oppose minority rights, Kymlicka goes on to consider more positive arguments for according such rights.

In opposition to a liberal like Rawls, Kymlicka claims that the state should not necessarily be value neutral concerning different conceptions of the good life. We have to face the fact that we are living in states that carry with them a certain cultural history,

with everything this implies from majority languages, judicial traditions, and histories of war and conquest. Bearing this in mind, it is necessary to ensure that current laws take account of such facts and attempt to rectify wrongs that spring from these facts. It is in this vein that Kymlicka makes his important distinction between the rights of Indigenous and immigrant minorities, something he also refers to as his historical argument (Kymlicka 1995a: 117ff).

Kymlicka says in the introduction to *Politics in the Vernacular* that ‘The injustices faced by indigenous peoples are not the same as those faced by immigrants, and this is reflected in the sorts of minority rights they claim’ (Kymlicka 2001: 2). Kymlicka uses this fact to advance an important argument, namely that because of the different historical circumstances of Indigenous groups versus immigrant groups, these two types of minorities should be treated differently with respect to according them group rights within a liberal society. The underlying claim is a distinction, also recognised by a liberal such as Rawls, between natural endowment and choice. Kymlicka argues that because immigrants to a large extent have *chosen* to arrive in the liberal state, they carry a greater responsibility for also accommodating themselves to it. This is opposed to Indigenous groups, or what he terms ‘national minorities’, which he defines as groups who formed functioning societies in their historical homelands prior to being incorporated into a larger state (Kymlicka 2001: 54). This status thus conforms with the groups of Maori and Aborigines. Kymlicka proceeds with the argument

Insofar as national minorities form a distinct society, then they can provide a satisfactory context for the autonomy of their members. Indeed, their social culture provides a more satisfactory context than they would have if they were required to integrate into the mainstream society, since it is the culture they are familiar with, and identify with. The process of integrating into another society is difficult and costly, and it is unfair and unreasonable to expect national minorities to pay this price. The integration of immigrants is the result of a voluntary choice to emigrate, and it is the only viable path to achieve equality and freedom. By contrast, to expect the members of national minorities to integrate into the institutions of the dominant culture is neither necessary nor fair. Freedom for the members of national minorities involves the ability to live and work in their own societal culture (*ibid* p.55)

The question remains how Kymlicka would define such a ‘distinct society’. This is a question that has troubled many theorists within the field, and also causes continuing contestation within the UN apparatus in trying to decide matters in cases of conflict between Indigenous populations appealing for rights, and liberal states appealing to state cohesion. A look into how such issues may be solved in practice can be found in

Part III, detailing experiences with Indigenous/majority interaction in respectively Western Australia and New Zealand.

While there is cause for scepticism about the validity of Kymlicka's distinction between Indigenous and immigrant groups, because he greatly underestimates the pressure immigrant groups may have been under to emigrate from their original country of residence⁵, it is a distinction that is important for understanding Kymlicka's overall view on group rights. Kymlicka in general allows for the allocation of certain group rights, also some that may not immediately conform with traditional liberal perceptions of individual freedom. One could say that Kymlicka argues for a contextual definition of justice, and he thinks this is progress in comparison with the earlier liberal debate. Contextual in the sense of taking account of historical circumstances for particular national groups, such as experiences of colonisation. Like Rawls, Kymlicka thus argues that in deciding on what is just and fair, we need to take account of natural endowments versus private life style choice. Where Rawls and Kymlicka part ways is perhaps mostly in terms of what should be viewed as choice in this context.

Where should we place the claims of minorities on the 'choice – circumstance' divide? Is their minority affiliation a morally arbitrary circumstance for which we should give them recognition, or is it merely a question of having freely chosen an identity; a choice which they should bear the burdens of themselves? Kymlicka says that 'It must be recognised that the members of minority cultures can face inequalities which are the product of their circumstances or endowment, not their choices or ambitions' (Kymlicka 1989: 190). Kymlicka also argues that 'Ethnocultural justice cannot be secured by a regime of common rights' and goes on to ask 'Why should we view membership in ethnocultural groups [...] as a matter of political importance, rather than simply private lifestyle choices?' (Kymlicka 2001: 47). He advances three arguments in favour of according such affiliations political importance:

⁵ This scepticism is shared by Benhabib, and shall be further discussed in my presentation of her standpoint on in chapter 5.2. The discussion about whether integration of immigrants and/or Indigenous peoples is 'necessary' is certainly politically important, but because it has little relevance for the angle of approach adopted within Part I, I shall not comment further on it here, apart from stating that Kymlicka's argument builds on a series of implied assumptions that are not adequately discussed in his text.

- A right and need for recognition
- Promote individual freedom of choice and autonomy
- Diversity is intrinsically valuable, promote human creativity

Here Kymlicka's strongest argument seems to be the second one, especially as understood in the context that to truly have freedom of choice, also for members of minority cultures, such minority cultures must be protected so as not to limit the range of options for their members. The third argument, however, works in support of minority rights *post facto*, but as a principle of justice it hardly works (see Kymlicka 1995a: 121-123).

To contrast this with Rawls' views on minority rights, the most important difference is that Rawls' theory is not built on the notion of meritocracy. In other words, Rawls does not take account of the current state of the liberal society with its possible historical luggage of wrongs against minorities. Are history-based appeals to groups and hence group rights illiberal? Rawls would probably say that they are - he rather starts from a basic point of egalitarian treatment of *all* members of society, and hence rejects that some people should merit different treatment than others to begin with. Hence, he would probably agree with the normative content of arguments two and three above, whereas he would most likely dismiss the first, as it seems to imply a certain amount of meritocracy, which Rawls generally rules out. Of course, the disagreement between the two stems from a far more fundamental difference in approach, as Rawls' theory builds on what he terms an 'ideal theory' foundation, which in itself precludes anything resembling Kymlicka's 'argument from history'. This also accords with Kymlicka's own interpretation of their differences, as he says that he does not think that Rawls rules out that cultural membership may be a primary good, he just does not consider the possibility that the political and cultural community may not coincide (Kymlicka 1989: 177). And hence the question of a right to recognition would never arise.

Turning focus to the fundamental normative questions or problems that may arise in extension of this standpoint, the main problem identified by Kymlicka, and for that matter liberal opponents of according group rights at all, is the perceived risk that these policies will lead us on to a slippery slope, i.e. that they will gradually lead us to condone illiberal practices among minority groups demanding recognition for their

cultural practices. An often cited example in this connection is cliterodectomy. We certainly need to think about the logical extension of these rights and policies, as the stakes are high. Will minority rights be a Trojan horse undermining principles of freedom and equality? One way of getting around this problem is to distinguish, as Kymlicka does, between *internal* and *external* restrictions in relation to minority rights. He explains this distinction as follows:

- a) internal restrictions are the rights of a group against its own members, and can be used to protect against internal dissent.
- b) external protections are the rights of a group to protect itself from the impact of external pressures.

Whereas Kymlicka to a certain extent endorses b) – certainly in connection with Indigenous minorities, he thinks that liberals ought to be sceptical towards a). ‘A crucial task facing liberal defenders of minority rights, therefore, is to distinguish between ‘bad’ minority rights that involve *restricting* individual rights, from the ‘good’ minority rights that can be seen as *supplementing* individual rights’ (Kymlicka 2001: 22). This idea of *supplementing* individual rights is perhaps best interpreted as providing the necessary means for members of minority cultures to participate in cultural life (their own or that of the majority) on an equal footing with everybody else. Examples would include possibilities for interacting with the state in one’s mother tongue, affirmative action programs, state subsidies for cultural undertakings etc. It is, however, important to keep in mind that Kymlicka is still specifically referring to national minorities rather than immigrant groups when recommending such measures.

Even such a rather limited scope for minority right has elicited heavy criticism from many sides. Kymlicka uses chapter 4 in *Politics in the Vernacular* as an answer to some of his critics from his previous book *Multicultural Citizenship*. Here he tries to tackle the accusation that his liberal views are prototypical examples of Western ethnocentrism, which is an accusation leveled by several critics. Kymlicka himself answers that most groups accept these liberal norms. This answer, however, is not convincing if one looks at what types of claims have been raised, eg. the right to perform cliterodectomy on girls, the right to ostracise members who marry outside the

group etc. For the same reason, Kymlicka's rather bold statement 'For better or worse, the heart of multiculturalism in the West is about how to interpret liberal democratic principles, not about whether those principles are legitimate' (Kymlicka 2001: 61) seems too inflexible to allow for an encompassing debate about multicultural principles of co-existence.

A related point of critique would be to ask of Kymlicka whether particular polities within his scheme of extended cultural rights would in fact be able to settle on *any* shared goals. Imagine minorities existing within a liberal democracy who as part of their self-definition and self-understanding would rule out political engagement with the rest of the polity on grounds of external oppression. Such a position would amount to a political as well as a moral stalemate within Kymlicka's scheme. However, even if many oppose Kymlicka's views on different grounds, they do in fact prove rather resilient. One may speculate that this has something to do with the fact that Kymlicka, as accounted for above, represents a sort of middle ground in the debate over minority rights between liberals and communitarians, despite his self-professed alignment with the liberals.

Chapter 4: Communitarian approaches to minority rights

The general differences between liberals and communitarians have already been hinted at above as a fundamental difference between according moral priority to individuals, versus holding a view on the individual as necessarily ‘embedded’ – i.e. seeing cultural affiliations as constitutive of individuality, and hence also as containing moral significance in and of themselves. With specific reference to the issue of minority rights, Kymlicka describes communitarianism thus

Communitarians are looking for groups which are defined by a shared conception of the good. They seek to promote a ‘politics of the common good’, in which groups can promote a shared conception of the good, even if this limits the ability of individual members to revise their ends. They believe that members have a ‘constitutive’ bond to the group’s values, and so no harm is done by limiting individual rights in order to promote shared values (Kymlicka 1995a: 92).

This description may be harsh, but as will become apparent below in my discussion of Charles Taylor’s standpoint, it is not wide of the mark either. A more explicitly philosophical formulation of this difference could be articulated as follows: Rawls’ theory *presupposes* that the liberal society is based on originally morally responsible individuals, and in turn the liberal society *produces* such individuals. Whereas within the communitarian scheme, the social and political society also has to produce a *common value horizon* which will facilitate the *acquisition* of such moral competences for individuals.

In this vein, it is also noteworthy that one of the essays in which Taylor discusses these views is entitled ‘Irreducibly Social Goods’ (Taylor 1995: chapter 7). It is significant that Taylor here talks about irreducibly social goods rather than merely irreducible social goods, the point being that there are some goods which can only be realised in a social setting. A simplification of the argument between the liberal and communitarian camp could be that whereas the former to some extent does recognise a number of irreducible social goods (such as eg. freedom of speech) it does emphatically *not* recognise the existence of any irreducibly social goods. (With the possible exception of freedom of association, which is a freedom by nature requiring more than one person to exercise).

As was the case with the presentation of Rawls and Kymlicka in chapter 3, focus in the ensuing presentation of the positions of Charles Taylor and Michael Sandel will

be on those aspects of their theories that are relevant to the present study. This means that the presentation is a selective view on their work, focusing specifically on how their theories impact on questions of minority rights.

4.1 Charles Taylor

A central factor in Taylor's reasoning about minority rights is his subscription to the 'embeddedness' approach to individuals, and hence also his accordance of moral significance to cultural affiliations. It is in this vein he launches a severe attack on what he terms the atomist view on individuals, which in his opinion is the predominant view within the liberal camp. Against this view, Taylor stresses the dialogical nature of human beings. As he says in 'The Politics of Recognition', 'The crucial feature of human life is its fundamentally dialogical character' (Taylor 1994: 32). In other words, we are shaped by the dialogues (in the broadest sense) we take part in. Taylor also refers to Mead's concept of 'significant others', presenting the view that 'we define our identity always in dialogue with, sometimes in struggle against, the things our significant others want to see in us' (*ibid*: 33). And in the essay 'To Follow a Rule', he talks about the 'cul-de-sac of monological consciousness' (Taylor 1995: 169), here both in implicit and explicit reference to Wittgenstein's philosophy of language, adding to Wittgenstein's view that we cannot choose in a cultural value vacuum.

There are three elements to 'the good life' as defined by Taylor:

1. Creation/construction and discovery: to relate creatively to one's life and discover/uncover the good
2. Originality, an outstanding configuration of *my* good life
3. Opposition to the immediate rules and norms of society, relate critically to the norms of society

Taken together, these elements point to Taylor's emphasis on authenticity as a value for individuals in modern societies⁶. 'There is a certain way of being human that is *my* way. I am called upon to live my life in this way, and not in imitation of anyone else's life'

⁶ This does not mean that Taylor is uncritical of this value, see Taylor 1991: 25-29, and 1994: 28-37.

(Taylor 1994: 30). At the same time, these elements also signify the radical dialogical character of human life within the modern community: there is an individual side to each question, but also a significance-bearing horizon to all choices. Several goods are simply impossible to realise without interaction with others, and authenticity as an ideal need not preclude such interaction.

These considerations are what lead Taylor to formulate his prescriptive political theory, as expressed primarily in the essay 'The Politics of Recognition'. Here he says on one of the opening pages that 'due recognition [...] is a vital human need' (Taylor 1994: 26), which really is a normative statement disguised as a descriptive one. One might obviously ask, How so vital? The answer lies in the embeddedness view described above. In other words, partaking in a dialogical culture, which is a vital human need according to Taylor, presupposes a certain degree of fairness within such a dialogue. It is through these dialogues that we work out our identity, and this identity requires recognition from our interlocutors (Taylor 1991: 45-47). One's right to participate in the dialogue and express individual preferences must necessarily be recognised by fellow interlocutors, otherwise justice is violated and the dialogue is taking place on unfair premisses.

Based on this premiss of dialogues as a good, Taylor makes an argument for the intrinsic value of groups and cultures. He does so in pronounced opposition to liberalism, which he describes as just not good enough to support a politics of recognition. He says that '...just the fact that people can *choose* different ways of being doesn't make them equal', and adds 'There must be some substantive agreement on value, or else the formal principle of equality will be empty and a sham' (Taylor 1991: 51-52). This idea of groups and cultures as being intrinsically good *qua* their status as 'embedding' for individuals has been attacked from several sides, especially as the view seems to entail a prescription for preserving and nourishing such cultures. For example Kymlicka argues against Taylor that 'groups aren't the sorts of beings to have moral status, they don't feel pain or pleasure' (Kymlicka 1989: 242). Kymlicka elaborates on his disagreement in a footnote, saying that

...the claim that individuals, not communities, are the ultimate bearers of moral value is simply a recognition of the separatedness of consciousness. It may well be that membership in a community partially defines my identity, and hence defines the conditions of my flourishing. But it is still *me* who

suffers or flourishes, and it is *my* (and other individuals') suffering or flourishing that gives community its moral status (Kymlicka 1989: 244, footnote 3).

Kymlicka is not a core member of the liberal camp, and this criticism constitutes a minimum attack on Taylor on this account. A far harsher set of criticisms against any intrinsic value of groups comes from Michael Hartney, who is the author of the essay 'Some Confusions Concerning Collective Rights', which appears as chapter 9 in Kymlicka's *The Rights of Minority Cultures*. In this essay Hartney joins Kymlicka in arguing that the value of a culture can only stem from its contribution to the good life of *individuals* within this culture. Hartney, however, puts the view stronger, saying that 'though fostering the growth of a group may be good for the group, it is *morally irrelevant* unless it is also good for the members of the group' (Hartney in Kymlicka 1995b: 207, my emphasis). As Hartney says on the following page, there is nothing to detract from the truth of 'value-individualism', which is his catchphrase, and can be argued to be the epitome of liberalism.

The main argument Hartney is against, and which he with some justification attributes to communitarians in general, can be set up as follows:

- | |
|---|
| <ol style="list-style-type: none">1. Communities are goods (i.e. they have value)2. Therefore they ought to be protected3. Therefore communities have rights (to existence etc) |
|---|

It is particularly the second inference Hartney argues against, saying that legal rights can only be pronounced by legal authorities, no matter what moral philosophers think about it. There is some force in this argument, certainly if one takes into account the complicated issue of minorities within minorities, for example suppression of women in Indian bands in Canada enjoying extended cultural rights. In such cases, Hartney is probably right in saying that specific legal rights should be decided by legal authorities rather than moral philosophers. But contrary to Kymlicka, Taylor is not much concerned with such 'internal minorities', and hence he does not take a stand on this complicated issue. To put it simply, Taylor presupposes that the presently ongoing life is a good, and in that vein language, culture, and political participation are all

considered primary goods by Taylor, as opposed to Rawls, who considers these merely instrumental goods.

Taylor's subscription to the embeddedness view takes a particularly poignant expression in his arguments for *survivance*. Originally it is a concept developed within French speaking Quebec, but extended by Taylor to include in principle all sorts of communal/cultural attachments⁷. In 'The Politics of Recognition' Taylor accounts for this principle as including a moral obligation to preserve cultural multiplicity, not only for present generations but also for future ones. In this way, the French speaking community in Quebec not only has a moral *right* to have its culture protected from swamping by the surrounding Anglophone Canadian society, it also has a moral *obligation* to make sure that the French culture will persist for future generations to benefit from. Hence the rather perverse situation arises that in the event that all French Canadians decided that upholding a French culture in the face of a dominant and all-pervasive Anglophone culture was too psychologically costly, they would still have to maintain their traditions, in order to fulfill the obligation of leaving a rich cultural tradition for future generations! 'Policies aimed at survival actively seek to *create* members of the community, for instance, in their assuring that future generations continue to identify as French-speakers. There is no way that these policies could be seen as just providing a facility to already existing people' (Taylor 1994: 58/59). This is certainly a view that has provoked many liberals.

Interestingly, Rawls also considers it necessary to take into account the interests of and consequences for future generations. Thus, under the veil of ignorance, there is the further restriction that you cannot favour your own generation (Rawls 1999a: 118). But even so, this is clearly a very different argument from Taylor's. Whereas Taylor's argument for future generations concerns limitations in the freedom of the present population, Rawls' restriction is not so much a limitation of freedom as an attempt to secure a foundational justice. There is a clear temporal distinction at work here between describing a foundational situation, as opposed to prescribing a course of action for the

⁷ It might be appropriate here to point out that Taylor's concept of culture is in fact rather diffuse. In 'The Politics of Recognition' (Taylor 1994) he skips around between 'Western culture' in general and Quebecois culture in particular. Further mentioning of world cultures is absent, which conveniently leaves him off the hook concerning any intrinsic value of non-liberal cultures.

present. There is a profound division between Taylor on the one hand, and Rawls and Kymlicka on the other, on this point.

One can formalise Taylor's overall argument, and ask whether the following is valid?

<p style="text-align: center;">x is considered a good and x is only possible in the context of y hence y is good</p>
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When put this way, it becomes clear that this is hardly a tenable argument, because the inference that y is good in itself does not follow from the stated premisses. Furthermore, the conservative elements related to the preservation and promotion of 'y' is spelled out - which again relate to the question of intergenerational justice. This is an argument in favour of retaining the existing culture in its present form because it is viewed as a good in itself, rather than opening up for a debate about whether x might be better promoted within a different culture, such as z.

Possibly in an attempt to take the sting out of the disagreement between the liberals and communitarians, Kymlicka assesses Taylor's 'The Politics of Recognition', in the following way: 'Taylor's lecture is better understood as a sermon to (Americanized) English-speaking Canadians, and his argument is not that American-style liberalism is wrong for most groups in the U.S., but rather that it is wrong for countries like Canada whose central dilemma is how to deal with minority nationalisms' (Kymlicka 2001: 272, footnote 3). Different assessments and comments can be found in the essays included in the 1994 publication of 'The Politics of Recognition', published as *Multiculturalism*, where a number of commentators have made contributions. One of these commentators voices a concern in the preface that the politics of recognition scripts too tightly individual lives (Appiah in Taylor 1994: xi), and in his concluding essay he asserts that 'Between the politics of recognition and the politics of compulsion, there is no bright line' (Appiah in Taylor 1994: 163). How this politics of compulsion is to be avoided in reality, is one of the questions that will be addressed through the analysis in Part III. Another important commentator on Taylor's essay is Jürgen Habermas. Habermas argues against what he terms a 'preservation of species by

administrative means', adding that '... to guarantee survival would necessarily rob the members of the very freedom to say yes or no that is necessary if they are to appropriate and preserve their cultural heritage' (Habermas in Taylor 1994: 130). This sentence sums up most of the theoretical reservation concerning Taylor's 'politics of recognition' presented here.

4.2 Michael Sandel

Like Taylor, Michael Sandel's principal objection to liberalism concerns its view of the person. In his book *Liberalism and the Limits of Justice* (Sandel 1982), Sandel criticises the supposed independence of the original position as described by Rawls, and asks whether such detachment is at all possible? According to Kymlicka, Sandel argues against this idea by way of an argument concerning 'our deepest self-perception';

Rawls' view of the 'unencumbered self' does not correspond with our 'deepest self-understanding' in the sense of our deepest self-perception. According to Sandel, if the self is prior to its ends, then we should, when introspecting, be able to see through our particular ends to an unencumbered self. But, Sandel notes, we do not perceive our selves as being unencumbered: Rawls' view of the self as 'given prior to its end, a pure subject of agency and possession, ultimately thin', is 'radically at odds with our more familiar notion of ourselves as being 'thick with particular traits' (Kymlicka 1990: 212)⁸.

At the overall level, Sandel's book *Liberalism and the Limits of Justice* is a thorough analysis and criticism of Rawls' philosophical anthropology as found implied in the original position. Here Sandel demonstrates how Rawls' position is incoherent in its apparent distinction between voluntarist and cognitivist conceptions of agency as it occurs in the original position. Because none of the participants in the original position know anything about their preferences, they have no distinguishing traits. They are all alike in their 'pure self' forms, because they do not yet possess any preferences. Because of this, we cannot consistently talk about a situation of *choice* in the original position, but rather a condition of *discovery*. According to Sandel, Rawls confuses choice with discovery here, which radically alters the basic premisses of his project of justice as fairness, in that it ultimately ends up being an argument in favour of a strong ontological conception of the person.

⁸ The internal references in the quote is to (Sandel 1982: 94, 100)

The voluntarist aspects fade when one considers the fact that the persons under the veil/in the original position can only make *one* choice [sic], namely the fair one. The choice is preconditioned by the situation under the veil. Bargaining is not possible as people do not know their preferences, and hence it is really a situation of discovery rather than agreement. A question of knowing vs. willing. Hence Sandel concludes 'What goes on in the original position is not a contract after all, but the coming to self-awareness of an inter-subjective being' (Sandel 1982: 132).

Sandel also comments on how this affects Rawls' view on the role of the community: 'The assumptions of the original position thus stand opposed in advance to any conception of the good requiring a more or less expansive self-understanding, and in particular to the possibility of community in the constitutive sense [...] On Rawls' view a sense of community describes a possible aim of antecedently individuated selves, not an ingredient or constituent of their identity as such' (*ibid*: 64). This thus guarantees a subordinate status for the community, which Sandel disagrees with. However, Sandel also states that Rawls' theory implies a greater valuation of community than Rawls himself is probably willing to admit, a statement which might refer to Rawls' professed acknowledgement of value pluralism as well as his commitment to create a *communal* culture conducive to individual choice of values.

In contrast to this, Sandel wishes to promote a politics of the common good, which enables us to 'know a good in common that we cannot know alone' (Sandel 1982: 183). Mulhall and Swift mockingly point out that the communitarian attack on what they term liberal 'asocial individualism' is at bottom really a case of the chicken before the egg! As such, the gist of the debate is what to value higher: the individual or the community. But at any rate, neither can function without the other, which both sides recognise. Mulhall and Swift pinpoint the proximity and yet separatedness of the views

Where Sandel thinks that the liberal separation of the self from her particular ends involves a neglect of the value of community, for Rawls such a separation, such a willingness to distinguish the citizen from her comprehensive conceptions of the good; is required precisely for the achievement of the intrinsically valuable good of a political society that is publicly justifiable (Mulhall and Swift 1992: 205).

In this respect, according to Mulhall and Swift, Rawls might be able to disentangle himself from the communitarian critique that his persons are unbelievable as disengaged people, because *qua* citizens they may actually be able to be disengaged in this sense; it

may even be preferable that they should be so. And at any rate it is worth noticing that Rawls places the whole fact of (value)pluralism right at the heart of his theory – this is part of the point with the veil of ignorance.

Sandel, however, is probably still not convinced. In a more recent work entitled *Democracy's Discontent* (Sandel 1996), he identifies a number of pathological traits within particularly contemporary American society, but by extension Western liberal democracies on the whole. Here he maintains that liberalism as a political strategy has failed to deliver the safe and sound society it allegedly should promote, and hence a pervasive feeling of discontent dominates especially American politics. He takes up the traditional communitarian approach and says that '...the image of the unencumbered self is flawed. It cannot make sense of our moral experience, because it cannot account for certain moral and political obligations that we commonly recognize, even prize' (Sandel 1996: 13). And as a further direct attack on liberalism and the results it has led to in America in Sandel's eyes, he says that '...we are beginning to find that a politics that brackets morality and religion too completely soon generates its own disenchantment' (*ibid*: 24).

Disenchantment with contemporary American democracy is exactly the major malaise identified by Sandel in *Democracy's Discontent*. He sees this played out in for example different cases brought before American courts, suggesting that many of these cases ought to have been solved within the general deliberating public, rather than take up the time of the courts and further emphasise a deepening sense of antagonism within society. He quotes one particularly interesting court ruling, where he refers to Justice Brandeis who apparently attributed certain views to the founding fathers of the American Constitution: '...in government the deliberative forces should prevail over the arbitrary...; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government' (Sandel 1996: 79).

4.3 Assessment of the liberal/communitarian debate

Kymlicka writes in *Politics in the Vernacular* that it was only up until the early 1990s that the debate over minority rights was this stark contrast between liberals and

communitarians. This is the debate described above as essentially evolving around the question of the priority of individual freedom: is the individual morally primary to the community or vice versa? According to Kymlicka, the early debate over minority rights was influenced by the view that if one were a liberal, one would oppose minority rights as a dangerous and unnecessary departure from the proper emphasis on the individual. Kymlicka also states that recently liberals are not necessarily any longer opposed to minority rights, and there has been a great debate within the liberal camp itself over the meaning of liberalism. Rawls agrees with this view, and comments in *The Law of Peoples* that 'Human rights set a necessary, though not sufficient, standard for the decency of domestic political and social institutions' (Rawls 1999b: 80).

In other words, liberals and communitarians have according to Kymlicka gradually approached each other within the last approximately 15 years, and this is also the picture that has emerged from the above presentation of the respective standpoints in chapters 3 and 4. Examples that support this interpretation include Rawls' retraction of his claim to comprehensiveness, Sandel's point that even a liberal model like Rawls' implicitly includes a strong valuation of the community, and the fact that Kymlicka has in some respects been able to find a middle ground in this entire debate. This gradual merger of the two positions does not represent qualitative progress concerning the debate over *how* to accord minority rights or ensure a certain level of accommodation of minority interests. Neither set of theories is able to provide much in terms of practical guidelines. As stated in relation to the ideal foundation for Rawls' theory, the question arises what we can in fact use his theory for, if not for attempting to rectify current wrongs. Similarly, the conclusion to chapter 3.2 was that Kymlicka's position is in danger of ending in a political as well as a moral stalemate. Nor is it clear how the conservative elements identified in Taylor's position would allow room for different cultures to co-exist within one state.

Mulhall and Swift also point to the fact that the distinction between communitarians and liberals is less sharp than previously, stating that Rawls' position as developed after 1971 'is on the whole not susceptible to the communitarian critique' (Mulhall and Swift 1992: 167). They call it a question of whether the communitarians correctly perceive their target. Charles Taylor has even written an essay called 'Cross-Purposes: The Liberal-Communitarian Debate' (Taylor 1995: chapter 10), where he

aims to show that there are no great differences between the two camps. And in the essay 'Liberal Politics and the Public Sphere' (Taylor 1995: chapter 13), he proposes approaches to further the public debate and thus rectify current problems within liberal democracies, which he along with Sandel diagnoses as leading to discontentment. The remedy proposed by Taylor is to develop a public sphere of deliberation and consensus-seeking. The proposition to develop a sphere of deliberation will be the guiding impetus for the remainder of this study, first through a consideration over whether it is a useful alternative to the debate between liberals and communitarians (chapter 5).

The gradual merger of the liberal and communitarian position does not represent qualitative progress, because it does not produce any practically applicable guidelines for how to implement minority rights. Therefore a more pragmatic approach might prove fruitful. The first step towards such a pragmatic approach may be found in Adeno Addis' essay 'On Human Diversity and the Limits of Toleration' (Addis 1997). This essay is part of an anthology on the issue of minority rights from both judicial, philosophical, and more pragmatic angles. The basic question running through Addis' essay is 'What constitutes getting along in a multiethnic and multicultural polity?' (Addis 1997: 115). Addis points to the concept of toleration, and says that it is seen by some as a bridge to link liberalism and pluralism; 'there must be principles, common bonds and institutions that must have the allegiance of all members of the political community' (*ibid*: 117). However, toleration cannot do the trick alone. 'Toleration might affirm a notion of pluralism, but it is too thin to cultivate and sustain any sense of solidarity' (*ibid*: 122), and therefore he suggests that 'What is required is not simple toleration but dialogic engagement' (*ibid*: 122/23). In this way, Addis argues that toleration extends the deliberative aspects of democracy, and like Taylor he points to the need for developing a public sphere of deliberation. This is because toleration has to be practiced in dialogue with the other in order for toleration itself not to become oppressive. 'A genuine sense of shared identity, social integration, in multicultural and multiethnic societies will develop only through a process where minorities and majorities are linked in institutional dialogue' (*ibid*:128). Addis has in mind three central institutions in this dialogue: media, education and law - 'It is through those institutions that we develop an elaborate image of 'us'' (*ibid*: 128). This focus on a

specific set of societal institutions holds a pragmatic promise in comparison with the previously discussed models.

In connection with the idea of dialogue, Addis declares himself in line with the views of Habermas, and refers to him for the view that a norm is correct and valid (only) if it is the product of rational practical discourse. He elaborates on this, stating that ‘Reason is defined not in terms of transcendental subjectivity but in terms of communication’ (Addis 1997: 132), and further ‘What I have termed *pluralistic solidarity* sees the development of public reason as one that emerges out of the dialogue among various communities and traditions where these communities and traditions have the necessary resources to engage each other in a dialogue’ (*ibid*: 133, original emphasis). Returning to the pragmatic aspects, Addis lists three concrete proposals for how to facilitate such dialogues. The first principle is that rational decisions must be based on full information, so that both the majority and minority communities contribute to paint the picture of the area under debate. Addis’ second suggestion is that the regulations of common life – formal (law), as well as informal – need to take account of as many traditions as possible. Here he refers to Jon Elster’s comment on ‘the civilizing effects of hypocrisy’ (*ibid*: 135), understood in the sense that even if the majority disagrees with the views put forward by the minority, it still has to take account of them on moral grounds, as soon as they have been expressed publicly. Addis’ third and last principle is that rational information always has to be integrative, not in the sense of leading to unity of purpose, but in the sense of opening an integrative or inclusive dialogue, and through this creating incentives to critical reflection and coherent ordering of interests. The above three points can be boiled down to the following: full information, plurality, and inclusiveness of viewpoints. To sum up, what Addis is in effect proposing is a model of deliberative democracy; how this may be conceptualised will be the topic of the following chapter 5.

Chapter 5: A deliberative democratic alternative

As evident from the above extrapolation of liberal and communitarian views on minority rights, these two traditional branches of political philosophy have come to resemble each other without producing any workable guidelines for how to implement minority rights in practice. While providing concrete solutions to practical questions may not be part of the defined aims of these theories, the impetus for this entire project is exactly to look at whether normative theories can be made useful in understanding and possibly solving concrete problems of co-existence in modern pluralist societies. Therefore, the above chapter also introduced the idea by Adeno Addis that the creation of a more comprehensive dialogue between different groups in society might create greater accommodation for minority interests and preferences. How such a dialogue may work in theory and practice, I shall spend the rest of this thesis enquiring. First by looking at the theoretical model of deliberative democracy, and subsequently by turning to the empirical investigation of how the democratic dialogue takes shape and is played out in the two settings in focus, Western Australia and New Zealand.

However, it is first necessary to counter the argument that what was wrong with liberalism and communitarianism as debated in chapters 3 and 4, was not that they failed to produce practical guidelines for minority inclusion, but the more fundamental fact that they originate in a philosophical perspective. If this argument holds true, nothing will be gained by turning to the model of deliberative democracy. But a philosophical approach is *not* eo ipso contrary to reaching pragmatic solutions to a problem, provided consideration is given to the question of ‘translating’ normative theory into practical guidelines. In relation to the empirical material forming the backbone of this study, it turns out that theory and reality on some points enrich each other (see chapter 16).

It is profitable to begin by defining what the concept of deliberative democracy covers. Jon Elster in his book *Deliberative Democracy* defines it as follows: ‘decision making among free and equal citizens’ (Elster 1998: 1). But this definition does not tell us very much about why such decision-making should be desirable, nor, indeed, how it might come about. A further definition is offered by Adam Przeworski, ‘‘Deliberation’ is a form of discussion intended to change the preferences on the basis of which people

decide how to act' (Przeworski in Elster 1998: 140). A final definition, which also points to a political understanding of 'deliberation', comes from Joshua Cohen: 'a decision is collective just in case it emerges from arrangements of binding collective choice that establish conditions of *free public reasoning among equals who are governed by the decisions*' (Cohen in Elster 1998: 186, original emphasis). Because of the wording in Cohen's definition, deliberative democracy becomes not exclusively a form of politics, but also a framework for social and institutional arrangements. Social and institutional arrangements will be a prominent topic in the analysis in Part III. In connection with the presentation of data, I will also debate critically whether the evidence really points towards processes of 'free public reasoning among equals'.

Cohen speaks of his conception of deliberation as 'a compelling interpretation of the democratic ideal' (Cohen in Elster 1998: 187). Whether this democratic model is a normatively desirable one, will be discussed in the following subsections, presenting the viewpoints of the main proponent of the model of deliberative democracy, Jürgen Habermas, and supplementing his views with ideas and comments primarily by Seyla Benhabib and Iris Marion Young. Habermas' theories primarily function as a stimulus for developing an analytic framework, and therefore the following presentation focuses on selective aspects of those theories.

5.1 Jürgen Habermas

When debating theories of deliberative democracy, there is no getting around a discussion of Jürgen Habermas' development of the concept and his contribution to the ongoing discussion about this normative ideal. While drawing on his thoughts and ideas, I do not totally align myself with his notions, and will use him primarily as a sounding board to aid me in the development of an analytic model, which is to be empirically applicable. The development of the model is the subject of chapter 7. Here, however, focus is on those aspects of Habermas' notion of deliberative democracy that are relevant for this study, and the presentation will work in dialogue with some of Habermas' commentators, notably Seyla Benhabib.

Part of the problem facing anyone attempting to apply a 'limited version of Habermas', is that not only are his contributions to philosophical, political, and social

debate many and varied, they are also closely intertwined, and in many respects form a coherent whole even to the point that the man himself is part of his complex of ideas; thus he has been referred to as an ‘incarnation of his own thinking’⁹. Habermas is undoubtedly influenced by the fact of his birth in pre-WWII Germany, and it is no coincidence that his many contributions to academic as well as social debate centre on the premisses for a free democratic dialogue in modern capitalist societies. Quoting from one of his most recent works, ‘If we do not even present our different ethical views for discussion, then we cannot *sound out* the possibilities for reaching consensus through discourse’ (Habermas 1996: 309, original emphasis).

Another angle of approach to Habermas’ work is to view it as an attempt to rehabilitate the concept of rationality in the face of raging irrationalism and relativism. Habermas adheres to a fallibilist approach and is generally sceptical towards final reasons, because, as he argues, ‘Der moral point of view kann nicht in einem ‘ersten’ Prinzip oder in einer ‘letzten’ Begründung, also ausserhalb des Kreises der Argumentation selber gefunden werden’ (Habermas 1983: 175). In the formulation of Richard J. Bernstein (in Rasmussen 2002: 18), ‘No dispute about a validity claim is beyond rational argumentation by the participants involved’, which leads Bernstein to conclude that ‘there are rational grounds for social hope’ (*ibid*: 23).

Heine Andersen (in Andersen and Kaspersen 2000) also follows this approach to Habermas, stating that Habermas’ main project is to seek a method to establish a common ground for understanding. The continual problem perspective in Habermas’ theory is thus his focus on the conditions for a free and democratic dialogue in the modern capitalistic industrial society. As such, Habermas’ theoretical model should be applicable to a case study of Australia and New Zealand, as these are certainly modern capitalistic industrial societies; and following Habermas’ proposals, there are theoretical reasons to believe that a free and democratic dialogue in the form of ‘deliberative democracy’ would facilitate a smoother co-existence between the mainstream and Indigenous populations of these countries.

Following the argumentation from *The Theory of Communicative Action*, language, according to Habermas, has a capacity to coordinate action rather than merely to disclose the world. In other words, language is not just a means to transport

⁹ Steen Nepper Larsen, presentation at Århus University, May 20th 2005, ‘Jürgen Habermas – en intellektuel mellem sociologi, filosofi og offentlig intervention’.

information, but has an inherent telos to reach if not consensus¹⁰ then at least understanding, ‘Reaching understanding is the inherent telos of human speech’ (Habermas 1984: 287). This focus on language as a means to reach an end also points to another important aspect of Habermas’ philosophy of language¹¹, namely that it is procedural rather than substantive, meaning that Habermas focuses on explicating the procedure which is meant to lead to a rational consensus, rather than saying anything about what such a consensus should contain. ‘Die Diskursethik gibt keine inhaltlichen Orientierungen an, sondern eine voraussetzungsvolle *Prozedur*, die Unparteilichkeit der Urteilsbildungskraft garantieren zoll’ (Habermas 1983: 132). Unlike the liberals, he does not wish to point to any concrete norms, but rather to a procedure for how to reach agreement about such norms ‘...es soll sich ja im Wettbewerb zwischen Proponenten und Opponenten erst erweisen, ob diese [Norm] es *verdient* anerkannt zu werden oder nicht’ (*ibid*: 236). Talking about ‘der Überzeugungskraft des besseren Argumentes’ (*ibid*: 171), he argues that moral action has to be grounded on insight or reason.

This insight or reason is meant to come about through a dialogue between rational partners who engage with each other in order to reach a joint understanding about particular (moral) issues. This idea of dialogic engagement is at the core of Habermas’ notion of deliberative democracy. As Elster puts it, for Habermas ‘democracy revolves around the transformation rather than simply the aggregation of preferences’ (Elster 1998: 1). In other words, Habermas’ theory points towards strategies for reaching agreement on issues, rather than merely letting the majority rule. Interestingly, Elster in this way sees a common core in Rawls and Habermas, namely that political decision-making or choice, to be legitimate, must be the outcome of deliberation about ends among free, equal, and rational agents. The two political philosophers agree on the traditional liberal notion of free rational man, ideally equal – at least in situations where decisions about fundamental societal organisation forms are at stake. This means that Habermas joins liberal ideas about the citizen as an enlightened person possessing independent rationality and power of judgement, which is a necessary condition for deliberating through reasonable arguments and regulating

¹⁰ Habermas’ theoretical notion of consensus in the sense that everybody agrees *for the same reasons* will not be applied in this study, because it is of little empirical relevance.

¹¹ Properly denoted ‘discourse ethics’, I will, however, not use this phrase here, as I do not wish to explicate this concept more than strictly necessary for my present purposes.

communicative action. This is the precondition for any dialogue about norms. An important difference between Rawls and Habermas is that in the original position, Rawls' citizens merely have *political* autonomy, whereas Habermas' citizens have *moral* autonomy. However, both agree that the democratic constitutional state does not represent a finished structure, but is always under negotiation and refinement, but differ on the point that where Rawls operates with 'overlapping consensus', Habermas seeks 'truth' in the form of consensus reached through dialogue.

Habermas introduces four requirements for the ideal conversational situation, the situation he also describes as the 'masterless dialogue'. The four premisses run as follows (based on Andersen and Kaspersen 2000):

- Everybody can partake in the discussion
- Everybody can introduce and problematise any claim
- Everybody can freely express his/her attitudes, wishes and needs
- Nobody may be prevented through force¹² from exercising these rights

Importantly, this idea of a 'masterless dialogue' is an *ideal* theory, and how this ideal can be transformed into an empirically applicable set of guidelines for deliberative engagement is the topic of chapter 7. There are several reasons for viewing this model as ideal, and of possibly limited empirical value. The primary one is the underlying assumption about the rationality of man, which Habermas here shares with Rawls and the Kantian tradition overall. Inherent in the first three requirements is a fundamental ontological belief in the rationality of man, which is a prerequisite for postulating that everybody can partake in the discussion, introduce and problematise claims and freely express attitudes and wishes. These certainly appear to be acquired skills rather than innate ones, not to speak of the ability to be persuaded by others' viewpoints. Arguably, Habermas shows a naïve confidence in his fellow human beings. While it is clear that not all human beings necessarily possess the skill to debate in this way (young children would be an apt example), this is not a grave theoretical reservation in connection with *my* particular study. Habermas does require a high degree of rationality from dialogue

¹² The notion of force will be given a very wide interpretation in the empirical analyses. See footnote 75 in chapter 11.2

participants, but this requirement is met in this study through a respondent selection partly based on education. In Part II on methodology, reasons will be given for how and why focus was on interviews with rather elitist segments of Australian and New Zealand society – namely those segments of society directly involved in interaction and exchange of viewpoints between mainstream institutions and Indigenous populations in these two settings. Furthermore, one of the parameters in the investigation is how the educational system in these two settings does or does not contribute to fostering a milieu of deliberative democracy. So the argument that Habermas' ideal seems to point towards a need to focus on skills acquirement will be taken into the empirical account.

This focus and methodological approach, however, does not dismiss the relevance of various theoretical points of critique that can be raised against Habermas' ideals. It is certainly true that he places very high requirements on participants engaged in communicative action, an example would be the rationality requirement in the statement 'In the context of communicative action, only those persons count as responsible who, as members of the communication-community, can orient their actions to intersubjectively recognized validity claims' (Habermas 1984: 14). While this does indeed place restrictions on what can be uttered in a communicative interaction, this requirement does at the same time point to important theoretical preconditions that will have implications for any empirical application of the norm. In other words, this premiss for a valid dialogue in theoretical terms points towards moderations of standpoint which will have potentially profound effects on empirical dialogues – in this case about rights for Aboriginals and Maori. A further demanding requirement is the idea of publicity, which states that purely private reasons for a standpoint do not constitute an adequate standard for dialogue, 'Anyone who is so privatistic in his attitudes and evaluations that they cannot be explained and rendered plausible by appeal to standards of evaluation is not behaving rationally' (Habermas 1984: 17)¹³.

One may ask oneself whether Habermas' requirements make his theory too ideal, and of little empirical relevance? The question has often been raised whether the notion of a masterless dialogue is more than mere wishful thinking. Undoubtedly,

¹³ This is a requirement Habermas adopts from Kant's *Zum Ewigen Frieden*, where Kant for example states that 'Alle auf das Recht anderer Menschen bezogenen Handlungen, deren Maxime sich nicht mit der Publizität verträgt, sind unrecht' (Kant 1917: 64). This formulation occurs in Kant's commentary to Perpetual Peace, in the section entitled 'Von der Einhelligkeit der Politik mit der Moral nach dem transzendente Begriffe des öffentlichen Rechtes'.

communicative participants interviewed for this case study would often disagree about how to define situations, and thus not live up to the following statement by Habermas: ‘In communicative action, participants are not primarily oriented to their own individual successes; they pursue their individual goals under the condition that they can harmonize their plans of action on the basis of common situation definitions’ (Habermas 1984: 286). There are at least two possible answers to the charge that this admission makes the empirical application of Habermas’ theory of deliberative democracy irrelevant. First of all, *any* normative theory holds an ideal relationship with the empirical world, and would therefore have to be ‘translated’ in some sense for standards to be empirically applicable. This is an argument *against* applying normative theory on empirical data, which means that the test of relevance for application lies in whether the theory *can* plausibly be translated into a model we can in fact learn from. This is the topic of chapters 7 and 16. Secondly, it is important to notice that Habermas’ requirement of rationality is a rationality based on linguistic sense-making, it is about being willing to self-reflection in situations of defense. This means that there is nothing irrational about holding certain beliefs, it is merely irrational to refuse to revise them. And while this may be an arduous task to undertake, it cannot empirically be ruled out – looked at it in the grand perspective, ruling it out would amount to extreme conservatism, which at any rate is historically falsifiable when looking at Indigenous/mainstream relations in the two settings under investigation.

There is another problematic aspect, however, not linked to individual actor rationality, but rather to a growing dependence on experts in all matters of life, including political decision-making. Habermas’ requirements for participants in political deliberation are rather high, but he emphatically dismisses an all-out reliance on so-called experts

...it is counterproductive, not only from the viewpoint of legitimacy but also from a cognitive viewpoint, for attunement processes between governmental and societal actors to become independent vis-à-vis the political public sphere and parliamentary will-formation. From both viewpoints, it is advisable that the enlarged knowledge base of a planning and supervising administration be shaped by deliberative politics, that is, shaped by the publicly organized contest of opinions between experts and counter-experts and monitored by public opinion (Habermas 1996: 351).

But while the experts are to be kept on a tight string, Habermas limits the role of the public sphere too much in this instance, merely assigning it a ‘monitoring role’.

Compared with earlier work, Habermas' has slightly shifted his standpoint in *Between Facts and Norms*. In a commentary on this book, Schomberg explains '[...] institutional arrangements are democratic to the extent that they place the burden of proof on the 'experts' to construct convincing public arguments in light of their well-warranted knowledge claims and not their special authority' (Schomberg 2002: 39).

This suggestion still demands that the public is in fact able to distinguish well-warranted knowledge claims from un-warranted ones. In an essay comparing Habermas and Lyotard, David Ingram makes the following observation, 'Both philosophers hold that the pluralizing dynamics of social rationalization encourage forms of specialization that threaten to impoverish lay persons' capacities for autonomous moral reflection' (Ingram in d'Entreves 1996: 270), adding that 'If citizens cannot become experts, they can at least acquire the knowledge and critical skills necessary for holding them accountable' (*ibid*: 280). Again, this points towards a focus on skills acquisition. Habermas suggests that '...civil society also has the opportunity of mobilizing counterknowledge and drawing on pertinent forms of expertise to make *its own* translations' (Habermas 1996: 372, original emphasis). This notion of mobilizing counterknowledge and making alternative versions of a story available is an important question particularly in relation to the analysis of the media sphere in both settings.

Besides problems of rationality related to the first three requirements, brief comments to the fourth and final requirement that 'nobody may be prevented through force from exercising these rights' are necessary. Force or power is a many-faceted concept, and a general discussion can be found in chapter 6. For the purposes of this study, it would make more sense to reformulate Habermas' fourth premiss along more positive lines, namely 'Everybody should have access to exercising these rights'. This idea of 'access' retains Habermas' basic meaning about lack of prevention and would be easier to work with in empirical terms. The issue of access to debates is more easily measured, at least in mechanistic terms of physical or virtual access to face-to-face debates or various forms of mediated dialogic interaction. The concept of 'access' could be given a more normative meaning on top of the purely practical one, for example in the sense indicated above that society possibly holds a normative obligation to provide citizens with education or skills directed at enabling them to partake in democratic dialogue.

Based on these above four premisses for an ideal conversation, Habermas presents two claims about the kind of discourse which would develop from this: First of all, any person who pretends to engage in argumentative discourse must accept these rules, and, secondly, these rules imply the foundation for discourse ethics. Hence anybody who attempts to argue against any of the above four rules commits a performative error, and if so, we do not have to take the person seriously as a partner in a dialogue.

In this way, we arrive at the important insight that Habermas' description of the ideal communicative situation has nothing to do with a substantive view on ethics. Rather, this is a prescription for a *procedural* ethics, which means that Habermas leaves room for substantive disagreement among conversational partners about the good, as long as they adhere to the procedural rules of discourse ethics. Habermas' theory does not prescribe concrete value judgements, only the rules by which such judgements can be assessed through dialogue. Importantly, this leads to a situation where only interested parties feel inclined to take part in the dialogue, and hence it is possible to reach consensus about norms which only apply to these interested parties. Norms can apply to specific areas and need not necessarily be part of an overall (statewide) consensus. This opens up important new doors concerning the debate over minority rights, as it points towards a situation where specific needs and wishes may be taken account of in certain demarcated sections of society. While this is not an unproblematic conception, it also represents a more pragmatic approach to accommodating difference compared to the previously discussed options for normative guidelines surrounding the implementation of minority rights. In Habermas' understanding of language as a capacity to coordinate action, lies an important indicator to how minority communities might attempt to gain political influence via the already established and acknowledged democratic channels.

Apart from issues of rationality, two further general points of criticism against Habermas have been raised, namely that his theories are evolutionary and Eurocentric. One may argue that even if Habermas' theories generally are evolutionary and Eurocentric, it hardly matters for their relevance; but as my specific empirical field of investigation concerns an intersection of European and non-European derived cultural and institutional practices, it is a pertinent critique to raise here.

Concerning the question of evolution, one may ask oneself whether Habermas' entire philosophical project just amounts to deducting a series of norms that are merely inherent results of a historic (European or Western) evolution? He certainly often does refer to historical precedents, and for example the entire chapter 3 in *Between Facts and Norms* is an evolutionary history of how *is* has gradually been detached from *ought* within European civilization, which leads to the conclusion that in modern society interaction among individuals *must* be based on communicative action and giving reasons for one's *oughts*. As such, one may ask whether this means that the notion of deliberative democracy merely applies to societies having undergone this transformation?

This problem takes a particularly poignant expression in *Between Facts and Norms*, where Habermas among other things states about the possibility for a deliberative democracy that 'All we need presuppose is a type of public administration that emerged in the early-modern period with the European nation-state and developed functional ties with the capitalist economy' (Habermas 1996: 297). Here he has ventured into a less easily exportable notion of deliberation and the type of worldview it presupposes than in some of his earlier work. Compare for example the statement 'Worldviews can no more be true or false than can portraits. On the other hand, worldviews differ from portraits in that they in turn *make possible* utterances that admit of truth' (Habermas 1984: 58, original emphasis) with 'From the very start, communicative acts are located within the horizon of shared, unproblematic beliefs; at the same time, they are nourished by these resources of the *always already familiar*. The constant upset of disappointment and contradiction, contingency and critique in everyday life crashes against a sprawling, deeply set, and unshakable rock of background assumptions, loyalties and skills' (Habermas 1996: 22, original emphasis). These statements may not be incommensurable, but in light of the fact that my empirical investigation is centred in Australia and New Zealand, one may ask oneself whether such a coherence of deeply set unshakable background assumptions can be assumed in today's pluralist societies?

Habermas is of course aware that reality in most liberal democracies is pluralist, and he moderates the above point with the observation that 'The more societal complexity increases and originally ethnocentric perspectives widen, the more there

develops a pluralization of forms of life accompanied by an individualization of life histories, while the zones of overlapping lifeworlds and shared background assumptions shrink' (Habermas 1996: 25). However, he fails to take this pluralism sufficiently seriously in his analysis with statements like, '...a legal community's political will, which of course should accord with moral insights, also expresses an intersubjectively shared form of life, existing interest positions, and pragmatically chosen ends' (Habermas 1996: 152). The notion of 'an intersubjectively shared form of life' is given no explanation. While *citizens* in pluralist states certainly live under conditions of a shared set of political institutions and institutional practices, this is by no means a guarantee for 'a shared form of life', neither privately nor institutionally, as equal treatment by the said institutions cannot be guaranteed merely through their sheer existence.

This points to a more general critique of Habermas' notion of deliberative democracy as developed in *Between Facts and Norms*, which on a few important points departs from a previous – and more ideal – notion. Habermas starts *Between Facts and Norms* by commenting on the link between philosophy and the empirical world already in the introduction. While it is fine that he *has* taken note of previous criticism that his theory was too ideal and only held little relevance for empirical studies, he goes too far in this book in order to accommodate the real world, and ends up delegating too much power and faith in parliamentary procedures when it comes to deliberative processes.

My particular qualms about the development of the notion of deliberative democracy in *Between Facts and Norms* relate especially to chapter 4, entitled 'A Reconstructive Approach to Law II: The Principles of the Constitutional State'. As the title suggests, Habermas uses this chapter to assess the legitimation of the constitutional state and its laws, proposing that '...we view law as the medium through which communicative power is translated into administrative power' (Habermas 1996: 150). This focus on the structure of the constitutional state, the separation of powers within it, and the role of law and review processes (especially debated towards the end of chapter 4) causes Habermas to delegate too much to parliamentary processes and show too little confidence in the potential of the public sphere. In fact, Habermas here approaches a position similar to that criticised by Dryzek (2001: chapter 1), where Dryzek argues that the theory of deliberative democracy is in danger of being appropriated by liberal

constitutionalists, who hold a very limited and limiting view on when it is appropriate to deliberate – primarily in constitutional fora and parliament. ‘The assimilation of deliberative democracy to liberal constitutionalism has been strengthened by the seeming defection of Habermas’ (Dryzek 2002: 27).

Habermas debates the potentials of the public sphere primarily in subchapter 8.3, ‘Civil Society, Public Opinion, and Communicative Power’ (Habermas 1996: 359-387). Here the public sphere is described as ‘a warning system with sensors that, though unspecialized, are sensitive throughout society’ (Habermas 1996: 359), and it is stated that ‘The capacity of the public sphere to solve problems *on its own* is limited’ (*ibid*, original emphasis), enforcing the idea that the role of the public sphere is to identify problems and also ‘convincingly and *influentially* thematize them, furnish them with possible solutions, and dramatize them in such a way that they are taken up and dealt with by the parliamentary complexes’ (*ibid*, original emphasis). This seriously limits the role of the public sphere in comparison with Habermas’ earlier views. From a normative standpoint, preserving a certain amount of *faith* in the role of the public sphere and its ability to solve problems is important in order to maintain a democratic balance. Hardcore rational choice theorists would argue that politics is not based on faith, but from the point of view of political legitimation, faith is important. While the *letter* of the law might provide de facto authority to a particular policy or course of action, legitimation in the eyes of the citizenry is likely to have just as much to do with the *spirit* of the law.

‘According to discourse theory, the success of deliberative politics depends not on a collectively acting citizenry but on the institutionalization of the corresponding procedures and conditions of communication, as well as the interplay of institutionalized deliberative processes with informally developed public opinions’ (Habermas 1996: 298). Here he places undue emphasis on the *institutionalisation* of discourses. As Dryzek points out, the public sphere is not necessarily best served by always delegating its debates to decision by political institutions. Perhaps a particular issue is better served by continuing to be debated in the public sphere rather than be sent to parliament/court/ministries or other institutions for a decision to be taken. Dryzek

talks about the desirability of exclusion¹⁴, and how the test should be whether the public sphere will be depleted if a debate is moved from the public sphere to for example a ministry, giving as an example the co-optation of certain parts of the American environmental movement under the Clinton administration (Dryzek 2002: 96-97).

Habermas writes that ‘...to the extent that it [the public sphere] extends to politically relevant questions, it leaves their specialized treatment to the political system’ (Habermas 1996: 360), and ‘...the communicative structures of the public sphere *relieve* the public *of the burden of decision making*; the postponed decisions are reserved for the institutionalized political process’ (*ibid*: 362, original emphasis). The question to ask would be whether this is really a desirable system? He does somewhat vindicate the public sphere: ‘...the political influence that the actors gain through public communication must *ultimately* rest on the resonance and indeed the approval of a lay public whose composition is egalitarian’ (*ibid*: 364, original emphasis). But the policing function the public sphere is effectively left with is inadequate. Scheuerman agrees in this; calling his essay ‘Between Radicalism and Resignation’ he evaluates the content of *Between Facts and Norms*, which in important respects ‘...amounts to an administratively dominated ‘normal’ politics’ (Scheuerman in Schomberg 2002: 74). The following quote reinforces the impression that Habermas (possibly in an attempt to approximate empirical reality) ends up describing an administratively dominated ‘normal’ politics:

The power available to the administration alters its aggregate condition as long as it remains tied in with a democratic opinion- and will-formation that does not just monitor the exercise of political power *ex post facto* but more or less programs it as well. Nevertheless, only the political system can ‘act’. It is a subsystem specialized for collectively binding decisions, whereas the communicative structures of the public sphere constitute a far-flung network of sensors that react to the pressure of society-wide problems and stimulate influential opinions (Habermas 1996: 300).

Here I would particularly seize on formulations such as ‘*ex post facto*’ and ‘more or less program’. The question is whether the function of the public sphere and deliberative practices is to provide antecedent or *post facto* deliberation? There is a problem here, especially in Habermas’ position as of 1996. The suspicion raised by Dryzek that Habermas is nearing himself too much to liberalism, is supported by the following quote by Rawls, which closely echoes Habermas’ point above, ‘...the enactment and

¹⁴ This is particularly debated in (Dryzek 2002: 81-114) chapter 4 ‘Insurgent Democracy: Civil Society and the State’.

legislation of all institutional procedures should always be regarded by citizens as open to question. It is part of citizens' sense of themselves, not only collectively but also individually, to recognize political authority as deriving from them and that they are responsible for what it does in their name' (Rawls in Rasmussen 2002: 129). Habermas also points to forms of action which are hardly discourse ethical in a strict sense, although demonstrations are a form of communication, '... the justification of civil disobedience relies on a *dynamic understanding* of the constitution as an unfinished project [...an] above all fallible and revisable enterprise' (Habermas 1996: 384, original emphasis¹⁵). Again, undue emphasis on the constitution plays too much into the hands of liberals – not to speak of the fact that *some* Western democracies do not have a written constitution as such, at least not in the sense of one unified document.

In *Between Facts and Norms* Habermas also takes over an idea from Bernhard Peters about 'centre and periphery' in order to explain how political issues occur and travel from the public sphere to the parliamentary complex (Habermas 1996: 354ff). This view entails a model in which the political system forms the core or centre, which is to be distinguished from the periphery (the public sphere) by virtue of its formal decision-making powers. This model involves a notion of 'sluices' by which impulses are led in from the periphery to the centre. Condensing Habermas' description, this means that issues such as for example nuclear power, genetic engineering, ecological threats etc. appear in the public sphere, and 'Moving in from this outermost periphery, such issues force their way into newspapers and interested associations, clubs, professional organizations, academies and universities [...//social movements can then] dramatize contributions, presenting them so effectively that the mass media take up the matter [...//which can be led] into the core of the political system and there receive formal consideration' (Habermas 1996: 381).

Dryzek's point about benevolent exclusion points to the fact that some issues for public debate would in fact be ill served by receiving formal consideration. Furthermore, Habermas pays too much attention to formal parliamentary debate and too little to extraparliamentary governance. Sluices are operated by gatekeepers, and these gatekeepers might be members of the press or interest organisations, clubs, professional organisations etc.; and, as my data suggests, non-elect bureaucrats also have important

¹⁵ The implicit reference here is to the German Constitution, which only accentuates problems of Eurocentrism discussed above.

say over which issues get treated and in what manner. Speaking about a one-way flow in a metaphor of water pooling to exert pressure on sluices, denies the intricacies of how issues for deliberation actually develop. Habermas' description condensed above seems almost teleological, and while he adds that 'Naturally, there are other ways in which issues develop, other paths from the periphery to the center, and other patterns involving complex branching and feedback loops' (Habermas 1996: 382), he does not give any examples of such alternative paths.

A few examples of such dynamics will appear in Part III. And this is where my study radically departs from Habermas' theoretical model. The basis for his model is strictly procedural rather than substantive, and hence the model of deliberative democracy can be regarded only as a normative sounding board for my investigation. Habermas does not develop a thick understanding of the integrative aspects of deliberative democracy, but rather a procedural one. It is here I hope to be able to contribute with a thicker notion of what deliberation entails in two specific case settings.

5.2 Seyla Benhabib and Iris Marion Young

The presentation of Habermas' notion of deliberative democracy already included several points of critique of this model and various reservations about it. Focus in the present section will be on further developments of Habermas' model by multiculturalist theorists, in this case particularly emphasising the insights of Benhabib and Young, insights that spring from a concern with ethnocultural justice from a feminist point of view. While feminist concerns are not part of my empirical study per se, important new theoretical insights can be gleaned from this angle of approach, as it can help delineate normative boundaries for what should and what should not be up for deliberative debate and cultural accommodation. While Benhabib argues for a deliberative approach to democracy, she only does so following a number of theoretical and practical reservations.

Benhabib's primary reservation concerns the risk of holding an essentialist view of culture. She greatly emphasises the need to retain a dynamic view of culture rather than a static one; this is the most important aspect of her contribution to the debate over

whether deliberative democracy would be a good model within which to accommodate group differences and interests. She re-evaluates the concept of culture as well as the concept of individuality (Benhabib 2002), and generally warns against holding premature normativistic views that will freeze existing group differences. In other words, she is – like Habermas – concerned with developing a model that can facilitate continuous interaction between different (and changing) interests in society. She states in her preface that ‘I propose a deliberative democratic model that permits maximum cultural contestation within the public sphere, in and through the institutions and associations of civil society’ (Benhabib 2002: ix). This cultural contestation is necessary, she argues, because there has been a premature normativism which has led to ‘an all-too-quick reification of given group identities’ (*ibid*: viii), which risks leading to policy recommendations which will freeze existing group differences. Therefore, a deliberative democratic approach may not only ensure democratic legitimacy, but may also hinder illegitimate reifications of culture: ‘The claims of cultures to retain their individuality [...] can be realized only through risky dialogues with other cultures that can lead to estrangement and contestation as well as comprehensive and mutual learning’ (*ibid*: xiv).

Because of her anti-essentialist view on culture, Benhabib says that ‘our guiding model has to be that of a medium of loosely associated, multiple foci of opinion formation and dissemination which affect one another in free and spontaneous processes of communication’ (Benhabib 1996: 74). Such a statement presupposes that foci from which to form an opinion can indeed be located. In this connection, Benhabib fails to make sufficiently clear her assumptions about culture as a phenomenon that ‘from within [...] need not appear as a whole’ (Benhabib 2002: 5), and the types of demands posed by minority spokespeople and the origin of the supposed legitimacy of those minority leaders posing such demands (*ibid*: 16). Like Habermas, Benhabib professes to adhere to Gadamer’s ideal of *Horizontverschmelzung* (*ibid*: 34-35), which harmonises well with ensuring a non-static view of culture. However, Benhabib fails to theorize adequately over any starting point for this merging of horizons – presumably a merger is of *something*. While the model of deliberative democracy focuses on *procedural* fairness, its actual practice presupposes that legitimate interests can be articulated and thrown into the debate.

One reason why Benhabib is so concerned with not holding an essentialist view of culture springs from her feminist concerns that endorsing minority rights may in some instances increase internal suppression, especially of women. In this vein she endorses Kymlicka's distinction between external and internal rights for minority groups; yet she criticises him for neglecting for example gender distinctions. Here Benhabib's critique is misplaced. In fact, one of Kymlicka's often cited examples of problematic internal restrictions is the phenomenon of cliterodectomy and other oppressive measures directed at women. Benhabib, however, thinks that Kymlicka reifies national and ethno-cultural identities over other forms, and says 'I seek a stronger differentiation than Kymlicka allows between social action systems, cultures, and personality structures' (Benhabib 2002: 61). This critique is more apt, as Kymlicka does hold a rather static view of culture and individual cultural identity. Returning to a previous quote, Kymlicka claims that 'their [Indigenous peoples'] social culture provides a more satisfactory context than they would have if they were required to integrate into the mainstream society, since it is the culture they are familiar with, and identify with' (Kymlicka 2001: 55). Benhabib criticises Kymlicka's view of culture for being too static; and his insistence on Indigenous cultures being more original or less mutated than migrant cultures is a particularly poignant example. Benhabib heavily criticises the distinction between national minorities and so-called 'voluntary' immigrants (Benhabib 2002: 63).

She further argues that Taylor and Kymlicka are too unitary and flatten internal group divisions, for example in not paying sufficient attention to internal oppression of minorities within minorities. As Benhabib puts it, 'Kymlicka's own arguments [...] are based on culturalist premises rather than political evaluations of movements and their goals' (*ibid*: 65). It is necessary to look concretely at the types of claims and demands made by minorities (and test them in a public debate) before extending any special rights. Benhabib suggests that 'The status of women and children is a litmus test for multiculturalist aspirations and their theoretical defenders...' (*ibid*: 80), and this is in fact one relevant yardstick by which to measure group claims for accommodation of interests.

The way to carry out such a litmus test, then, would be to express multiculturalist aspirations in a free and open democratic dialogue. Benhabib sees

various advantages of carrying out such dialogues; ‘The process of ‘giving good reasons in public’ will not only determine the legitimacy of the norms followed; it will also enhance the civil virtues of democratic citizenship by cultivating the habits of mind of public reasoning and exchange’ (*ibid*: 115). This focus on enhancing the civil virtues of the citizenry corresponds well with the decision to include the education system in the empirical analysis in Part III. Benhabib’s implied point is that there is an educational aspect of citizenship, which is also suggested by the Austrian political philosopher Bauböck (1994). Benhabib states that reality in many social settings in fact already demands an ability to engage in dialogue, ‘‘Complex cultural dialogue’ is not only a sociological reality, but also an epistemological vantage point with methodological implications for social science and moral inquiry’ (Benhabib 2002: 48). While she acknowledges the ideal nature of the deliberative model, she sees both an educational dimension to it, as well as a legitimising one:

There is no presumption that moral and political dialogues will produce normative consensus, yet it is assumed that even when they fail to do so and we must resort to law to redraw the boundaries of co-existence, societies in which such multicultural dialogues take place in the public sphere will articulate a civic point of view and a civic perspective of ‘enlarged mentality’ [...//...] it is an idealized model in accordance with which we can measure the fairness and legitimacy of existing practices and aspire to reform them, *if and when* the democratic will of the participants to do so exists (Benhabib 2002: 115, original emphasis)

This notion of ‘enlarged mentality’ through dialogic engagement is seconded by Young, who writes that ‘By including multiple perspectives, and not simply two that might be in direct contention over an issue, we take a giant step toward enlarging thought’ (Young 2000: 116). A further argument advanced by Benhabib in favour of adopting a deliberative democratic model is that ‘Most democratic dialogue is not about incommensurables, but about divergent and convergent beliefs, and very often we do not know how deep these divergences are, or how great their overlap may be, until we have engaged in conversation’ (Benhabib 2002: 136). She adds the qualifying reservation that ‘deliberative democracy need not proceed from a *unitarian model of the public sphere*’ (*ibid*: 138, original emphasis) – i.e. it is important that there is still room for different discursive practices. In relation to the debate in New Zealand, one could speculate whether this theoretical idea of ‘different discursive practices’ would include

talks on the marae¹⁶! According to Benhabib, it is both dangerous and wrong to assume that marginalised groups represent ‘the other of reason’ (*ibid*: 139), which is a sound piece of advice in reference to the debate about any possible inherent hegemony in Habermas’ assumptions about reasonable dialogues.

This is also a theme taken up by Young in her writing about democratic inclusion. She argues that norms of deliberation value a particular style of expression, namely argument, which may lead to exclusion in the sense that standards of rationality in the public sphere often will value a particular style of argumentation. ‘By argument I mean the constuction [*sic*] of an orderly chain of reasoning from premisses to conclusion’ (Young 2000: 37). ‘[T]hese norms of ‘articulateness’ are culturally specific’ (*ibid*: 38). Young therefore promotes greeting, rhetoric, and narrative as alternative supplements to traditional Western ways of argumentation.

Greeting, or in political contexts public acknowledgement, is a form of communication where a subject directly recognizes the subjectivity of others, thereby fostering trust. Rhetoric, the ways that political assertions and arguments are expressed, has several functions that contribute to inclusive and persuasive political communication, including calling attention to points and situating speakers and audience in relation to one another. Narrative also has several functions that counter exclusive tendencies and further argument. Among other functions, narrative empowers relatively disenfranchised groups to assert themselves publicly; it also offers means by which people whose experiences and beliefs differ so much that they do not share enough premisses to engage in fruitful debate can nevertheless reach dialogical understanding (Young 2000: 53).

Neither Young’s identification of the ‘problem’ of deliberative democracy nor her proposed solution is convincing, however. First of all, she incorrectly perceives her target. It simply is not true that the model of deliberative democracy as such privileges a particular style of reasoning. It does presuppose that one can articulate standpoints and interests – but so do greeting, rhetoric, and narrative. *Any* expression in public that can be acknowledged as a truthful expression of interest in principle counts as an argument in deliberative debate. However, if it is merely an argument from purely *personal* interest, it will not be given much attention. Therefore, it is simply not true to say that the theory excludes non-Western traditional forms of rational argumentation.

Secondly, forms of greeting, rhetoric, and narrative can be just as oppressive as forms of ‘rational’ argumentation may be. Witness the conferral of titles upon people

¹⁶ A marae is a Maori meeting ground, among other things utilised as the setting for important political discussions, and - as data from New Zealand demonstrates - still considered an important venue for authoritative decision-making.

relating to aspects as diverse as marital, occupational, and educational status; titles which will often be included in greeting ceremonies. Also practices of personal narrative or story-telling within for example self-help groups or religious communities may be just as – if not more – oppressive than other types of expression. Consequently, even if there were a problem, Young's proposed solution would not work.

Furthermore, the imperative to be reasonable would *not* disappear if one used other modes of expression than argumentation – something Young herself also acknowledges: 'To be reasonable is to be willing to change our opinions or preferences because others persuade us that our initial opinions or preferences, as they are relevant to the collective problems under discussion, are incorrect or inappropriate' (Young 2000: 25). Whether one would use narrative or rhetoric to express an opinion, publicity and justice are still necessary requirements. 'Because others are not likely to accept 'I want this' or 'This policy is in my interest' as reasons to accept a proposal, the requirement that discussion participants try to make their claims understandable and persuasive to others means they must frame the proposals in terms of justice' (Young 2000: 115/116).

Like Benhabib, Young thus endorses a deliberative model of democracy with certain reservations. Benhabib argues that not only is such a model normatively desirable - in view of the fact of cultural pluralism, it is also a sociological *necessity*. 'In effect the contemporary global situation is creating real confrontations between cultures, languages, and nations, and if the unintended results of such real confrontations is to impinge upon the lives of others, then we have a *pragmatic imperative* to understand each other and to enter into a cross-cultural dialogue' (Benhabib 2002: 36, original emphasis).

Benhabib bases her advocacy of the deliberative approach to democracy on three normative principles of *egalitarian reciprocity*, *voluntary self-ascription*, and *freedom of exit and association*. 'The principle of egalitarian reciprocity, interpreted within the confines of discourse ethics, stipulates that within discourses each should have the same right to various speech acts, to initiate new topics, and to ask for justification of the presuppositions of the conversation, and the like' (Benhabib 2002: 107, original emphasis). The principle of *freedom of exit and association* is connected to the one of *voluntary self-ascription*, both implying that nobody should be assigned a group identity

without their explicit consent and wish, and that everybody should be free to exit any group if they so wish. Freedom in this connection even possibly means extending a certain level of compensation for any possible privileges lost upon leaving a group.

In this way, Benhabib differs from Young's more general endorsement of deliberation, 'The normative legitimacy of a democratic decision depends on the degree to which those affected by it have been included in the decision-making processes and have had the opportunity to influence the outcomes' (Young 2000: 5/6). As Young is arguing from the perspective of inclusion (her book is entitled *Inclusion and Democracy*), she advocates the deliberative model in a somewhat different vein,

I argue that the model of deliberative democracy implies a strong meaning of inclusion and political equality which, when implemented, increases the likelihood that democratic decision-making processes will promote justice [...//...] Inclusive democratic practice is likely to promote the most just results because people aim to persuade one another of the justice and wisdom of their claims, and are open to having their own opinions and understandings of their interests change in the process (Young 2000: 6).

Very likely, Benhabib would not disagree with this statement, only add that it is necessary to look at the actual content of claims raised, and not simply promote inclusion for the sake of inclusion itself, but critically evaluate what such minority movements *de facto* advocate. '[I] argue that in reflecting upon politics of identity/difference, our focus should be less on what the group *is* but more on what the political leaders of such groups *demand* in the public sphere' (Benhabib 2002: 16, original emphasis). Thus my decision to focus on minority leaders and other representatives from diverse societal groups when selecting respondents (see Part II) corresponds well both with Habermas' implicit demands, and Benhabib's explicit recommendation to focus on 'what the political *leaders* of such groups demand' [my emphasis]. On the other hand, it does not appear advisable to follow Benhabib in her emphasis on *demands*. It seems clear - already from a purely theoretical perspective - that much more is involved in deliberative claims-making processes than demands.

One more comment should be attached to Benhabib's theoretical considerations, relating to her statement that 'I am not suggesting anywhere in this discussion that legal norms should originate through discursive processes' (Benhabib 2002: 118). If legal norms cannot be influenced by democratic deliberation, there hardly is any point in undertaking such discussions. Surely it must be a core goal for anyone taking part in deliberative processes to also influence concrete legal norms. Despite my reservations

about Habermas' focus on political institutions (in Habermas 1996), the possibility that public debate *may* result in legal decision-making is in fact retained as a central argument also in this book.

According to Benhabib, the chief virtue of Habermas' model of deliberative democracy is its openness and indeterminacy. She praises Habermas' model for retaining the possibility for everybody to influence procedures. However, this really implies a requirement of resource abundance, resources here understood as time and opportunity to have one's views heard, as well as the ability to formulate one's viewpoints. This is an important reservation to raise, because it potentially influences empirical results in a critical way.

Although not specifically concerned with the plight of Indigenous peoples, Benhabib does turn very briefly to this question. 'While being greatly sceptical about the chances for survival of many of these cultural groups, I think that from the standpoint of deliberative democracy, we need to create institutions through which members of these communities can negotiate and debate the future of their own conditions of existence' (Benhabib 2002: 185). This statement would probably elicit heavy criticism from Maori and Aborigines! And part of the inherent assumptions in this particular study is that such debates and negotiations *can* potentially impact upon a culture's chances for survival. In Williams' words, there are good reasons to believe that the perspective of hitherto marginalised groups will contribute to the comprehensiveness of political decisions (Williams 1999: 65), and that 'The participation of formerly excluded groups in the process of rights-definition will probably produce unexpected outcomes and novel ways of thinking about rights' (*ibid*: 71).

While Benhabib's scepticism is not unfounded, her more or less implicit suggestion about institutional engineering contains greater hope than she possibly realises – this will be debated in Part III. Williams also suggests an empirically grounded investigation of available solutions, 'In fact, I do not believe that the ideal of a deliberative politics of difference *is* naively utopian under all circumstances; the trick is to be more specific about the circumstances in which it is conceivable that privileged groups will relinquish some of their privilege in response to marginalized groups'

claims of justice' (Williams 1998: 144, original emphasis). How one may concretely carry out such an investigation of conducive circumstances is the subject of chapter 7.

Chapter 6: Central concepts

Before progressing to the development of a model to be used in empirical analyses, this chapter will briefly discuss a few central concepts – some of which have already been explicitly referred to, and others which constitute parts of the underlying assumptions supporting this entire project. Focus will here be on explicating the notions of democracy, politics, rationality, and power as applied in this study. In contrast to the concept of minorities, which was defined at the beginning of Part I, the understanding of these four concepts depends crucially on the theoretical considerations unfolded above, which is why a discussion of them has been deferred till now. Another reason for deferring this discussion is that in opposition to the *definition* of the concept of minority in chapter 2, these four concepts will not be *defined* but rather *discussed*. This is because a reflexive stance on these concepts can enrich the approach to the empirical field, while at the same time keeping an empirical focus rather than a theoretical one on the field of study.

Democracy

The basic meaning of the word democracy is ‘rule by the people’. However, for the purposes of this study, I am not talking about direct popular participation in government, but rule through some form of representation. While certain aspects of the empirical examples of interaction between Indigenous and mainstream groups investigated in this study do indeed constitute more or less direct forms of democracy, the Australian and New Zealand governmental systems are both representative.

According to Young (2000) a minimalist understanding of democracy is that it entails a rule of law, the promotion of civil and political liberties, and free and fair election of lawmakers. This leads Young to state that ‘Democracy is not an all-or-nothing affair, but a matter of degree’ (Young 2005: 5). The purpose of democracy is protection from tyranny, promotion of cooperation, solving collective problems, and furthering justice. Benhabib shares a similar conception of democracy, but bases it firmly within a deliberative framework.

Democracy, in my view, is best understood as a model for organizing the collective and public exercise of power in the major institutions of society on the basis of the principle that decisions affecting the well-being of a collectivity can be viewed as the outcome of a procedure of free and reasoned deliberation among individuals considered as moral and political equals (Benhabib 2002: 105)

In line with the theory of deliberative democracy in general, this quote makes a number of ideal assumptions, such as the notion of ‘free and reasoned’ deliberation among ‘moral and political equals’. Being an ideal approach, this means that the issue of protecting minority interests is not part of the formulation of the notion of democracy. Nobody has special privileges qua being a minority, but everybody has the right to voice their interests and have them heard. We can use this ideal to reflect on what free and reasoned deliberation among moral and political equals would entail in practice, and how we may further such equality.

An important normative problem inherent in the theory is the question of who should be included in debates. Benhabib argues that deliberative democracy cannot bring justice to those defined at the outset as outsiders (Benhabib 2004: 15). This is because the model is based on an assumption about inclusion of all relevant stakeholders – in practice often interpreted as affected *citizens*.

[...] a shared feature of all norms of membership, including but not only norms of citizenship, is that those who are affected by the consequences of these norms and, in the first place, by criteria of exclusion, *per definitionem*, cannot be party to their articulation. Membership norms affect those who are not members precisely by distinguishing insiders from outsiders, citizens from non-citizens. The dilemma is this: either a discourse theory is simply *irrelevant* to membership practices in that it cannot articulate *any* justifiable criteria of exclusion, or it simply *accepts* existing practices of exclusion as *morally neutral* historical contingencies that require no further validation (Benhabib 2004: 15, original emphases).

This is a basic problem in the model which could have far-reaching consequences for the normative desirability of its implementation in settings with heavy stratification among citizens and non-citizens, or various degrees of merit among citizens. Benhabib is right in pointing out that a discussion of membership criteria should be morally and politically prior to any implementation or recommendation of the deliberative model. In this respect, taking an articulated political stance towards the status of Indigenous peoples (and immigrants) is a prerequisite for implementing the deliberative model. Therefore, deliberative democracy only works in practice if membership criteria have been sufficiently debated and made clear, and may not be morally desirable in case membership criteria have been narrowly defined.

In several instances in this work, I have adhered to common usage and referred to Australia and New Zealand as so-called 'liberal democracies', which in its minimalist version merely means electoral democracy. According to Heywood, liberal democracy is the dominant conceptualisation of democracy in the West, and he explains that 'The 'liberal' element in liberal democracy emerged historically before such states could genuinely be described as democratic' (Heywood 2004: 226), for example evidenced by the fact that many states developed forms of constitutional government prior to extending general suffrage. In line with liberalism itself, liberal democracy builds upon a respect for individual freedom, which is partly to be protected by checks and balances on government. Based on both liberal and democratic values, 'Liberal democracies [...] respect the existence of a vigorous and healthy civil society, based upon respect for civil liberties and property rights. [...] The 'democratic' element in liberal democracy is the idea of popular consent, expressed in practice through the act of voting' (Heywood 2004: 226).

Politics

According to Heywood, politics is not a restricted activity confined to government, but a process of collective decision-making. It is a social activity which develops out of diversity (Heywood 2004: 52). This explanation fits extremely well with the notion of deliberative democracy as presented above, and the empirical investigations will focus both on governmental and extra-governmental decision-making. Furthermore, the entire methodological design is based upon the premiss that diversity exists within the two settings under investigation, that there is a social activity of collective decision-making going on, and that this activity is possible to trace. The concept of collective decision-making can be understood in line with the argument from Benhabib above, namely that it concerns 'decisions affecting the well-being of a collectivity [which] can be viewed as the outcome of a procedure of free and reasoned deliberation among individuals considered [...] equals' (Benhabib 2002: 105).

At a more abstract level, Melissa Williams argues that politics concerns the discursive formulation of justice. In other words, justice is not formulated *prior* to politics, but is something the polity has to agree on through political discussion (Williams 1999). On this understanding, politics is concerned with solving moral

questions about fair co-existence for people with diverging beliefs and attitudes who are members of the polity. While this notion is rather abstract compared to how most respondents would probably characterise their interaction, appeals to justice and fairness undoubtedly play an empirical role, although concrete interactions often centre around much more practical issues of application.

Rationality

The question of rationality has already been discussed particularly in relation to Habermas' requirements for a masterless dialogue. Here I will merely re-emphasise that rationality within a deliberative model of democracy concerns not the nature of views and beliefs held, but rather whether one is prepared to revise them following free and open dialogue with other rational partners. This means that rationality is to be considered communicative within the context of the present study. This may seem rather banal, but considering the fact that some Aboriginal and Maori political actors consider themselves to be radically differing from white or Pakeha style politics and modes of argumentation, it *is* in fact important that rationality is not about the *content* of one's beliefs, but about one's willingness to be self-reflective.

Power

I have deferred a discussion of the most contentious concept to the end, which, however, does not make it any easier to approach. Discussions in Part III will highlight the fact that power is many things in many different settings, and that respondents often have very varied notions of what constitutes power. As part of the impetus for this study is to align theory and empirical data, this means that the concept of power employed will follow more closely respondent conception than any textbook definition. This approach, however, does not mean that textbook definitions are without value. In political science, power is often conceptualised as the ability to achieve a desired outcome, also referred to as 'the power *to*'. Power is also often thought of as an interpersonal relationship, which would lead one to speak about holding 'power *over*' somebody; this would be an actor dominated conception of power. Power is also influence, it is not exercised in a vacuum, and not all power is necessarily intentionally

exercised (Heywood 2004: 122). As Christiansen and Togeby (2003: 10) point out, within political science we can also think of power as a structural phenomenon. In the natural sciences, on the other hand, power is much more materialistically conceived as force or energy. While this may sound like a banal conception of power in connection with social science, empirically it turns out that some of the most obvious – or at least most easily detectable – traces of power do indeed appear in rather materialistic guises. Examples would include what respondents referred to as ‘the tyranny of distance’, socio-economic contingencies, editorial clout, accessibility of decision-makers and government officials etc. Because of the decidedly empirical focus for the analysis, this means that it is such conceptions of power that dominate this study.

Christiansen and Togeby (2003: 10-11) speak about three major approaches to the concept of power, one focuses on the power of actors, another on structural power, and finally it is possible to speak about discursive power. While some respondents referred to charismatic people able to exert influence, few attributed the word power to such people, let alone to themselves. In fact, there was much more explicit as well as implicit focus on structural power in the form of political institutions, historical developments etc. A discursive conception of power also plays a role in this study, here mostly in relation to the analyses of media influence on democratic debates. Thus, overall, the conception of power used in this study is not easy to pin down, other than saying that it follows as closely as possible any empirically grounded conception in given relationships.

While few respondents spoke of power, many were keen to speak about authority and especially legitimacy, which has indeed been given its own subsection in the analysis (see chapter 13.2). According to Heywood, power concerns the *ability* to influence others, authority the *right* to do so (Heywood 2004: 130). While Heywood postulates that Weber’s old categories of ‘patriarchalism’ and ‘gerontocracy’ (the rule of the aged) as types of traditional authority have little relevance in today’s liberal democracies, the ensuing analysis of interview statements will actually conclude that this discussion is not yet over in all parts of Indigenous politics. Differing slightly from authority, legitimacy is here defined as ‘*rightfulness*’ of rule rather than merely the right to rule or exercise power. What exactly constitutes such rightfulness, is also a topic in chapter 13.2.

The above considerations about power are fairly generally applicable to any empirical analysis. Confining myself, however, to a deliberative democratic approach to decision-making practices, means that in this connection power also comes to mean the force of the better argument. In this conception, power is not the attribute of a person, but of language itself. '*The normative fault line that appears with this ability to say no* marks the finite freedom of persons who have to be *convinced* whenever sheer force is not supposed to intervene' (Habermas 1996: 324, original emphasis). Habermas distinguishes between influence and power in *Between Facts and Norms*, stating that 'political *influence* supported by public opinion is converted into political *power* [...] only when it affects the beliefs and decisions of *authorized* members of the political system and determines the behaviour of voters, legislators, officials, and so forth' (Habermas 1996: 363). In line with the critique of Habermas' position as developed in *Between Facts and Norms*, focus on authorised members of the political system and what Habermas' generally terms the 'centre' places too little emphasis on sources and modes of power exercised from the so-called 'periphery'. Therefore, the underlying assumption in the following analysis will be that power is not only an attribute of particular political authorities or office-holders, but that power is something which can be exercised more broadly by journalists, government officials, pressure groups, or even history. Respondent selection for this study to some extent reflects a level of influence and resources on the part of interviewees. However, the actual word 'power' is seldom used in Part III, because this would correspond poorly with the self-conception of most interviewees. Instead, recurrent references are made to various contingencies and resources purported to somehow affect political outcomes (or the lack of outcomes) as identified by respondents.

Chapter 7: Using deliberative democracy as a model for analysis

Using Habermas' notion of deliberative democracy in analysing empirical data does not present itself as a straightforward exercise. The Habermasian model is a theoretically derived notion based on certain ideal assumptions, among those people's ability to express their standpoints and interests. While Habermas' ideal premisses for participation in such a debate are not as clearly spelled out as Rawls', it is clearly the case that both political philosophers operate with a list of more or less explicit assumptions about human capabilities in achieving just and fair democratic societies.

Chapters 3-5 have demonstrated that from a normative standpoint, the notion of deliberative democracy is a desirable model to try to accommodate differences within. But even if the model is normatively desirable, the question still remains whether such a model makes sense in trying to analyse an empirical situation – in this case the level of interaction between Indigenous and mainstream interests in Western Australia and New Zealand. It appears necessary to transform Habermas' model to make it directly applicable to data.

One way of transforming the ideal of deliberative democracy into a more concrete model could be to see it as a model containing several sub-recommendations concerning the interaction processes between various interests in society. Recall the four premisses for a 'masterless dialogue':

- Everybody can partake in discussions
- Everybody can introduce and problematise any claim
- Everybody can freely express his/her attitudes, wishes and needs
- Nobody may be prevented through force from exercising these rights

With inspiration from *Understanding Habermas* (Eriksen and Weigård 2003: chapter 10), I have further developed these premisses into a series of sub-recommendations or requirements for an adequate democratic dialogue in society. These are the following:

- Access to express one's point of view
- Opportunity to express one's point of view
- Ability to express one's point of view
- Access to listen to other viewpoints and possibly be influenced by them
- Opportunity to listen to other viewpoints and possibly be influenced by them
- Ability to listen to other viewpoints and possibly be influenced by them

The ideas of *access*, *opportunity*, and *ability* relate in different ways to points made above in chapter 5, presenting the deliberative democratic alternative. Here I argued on p.62 that the idea of *access*, while retaining Habermas' basic meaning about lack of prevention in the last premiss for the masterless dialogue, would be a concept that is easier to work with in empirical terms. Therefore this is used in the operationalisation of Habermas' requirement. The ideas of *opportunity* and *ability* also relate to the discussion in chapter 5 about the relative merits of the deliberative democratic model. In the discussion of Benhabib and Young's reservations about the model, Benhabib was quoted to the effect that the principle of egalitarian reciprocity entails a right to initiate new topics and ask for justifications for other viewpoints (see p.74). Young also talks about the opportunity to influence outcomes (see p.75). Lastly, the point was made that the possibility to influence procedures would require a certain type of resource abundance, resources understood as opportunity and ability to formulate viewpoints (see p.76). In this way, *access*, *opportunity*, and *ability* to express viewpoints and listen to the viewpoints of other people would be an operationalisation of Habermas' masterless dialogue which not only makes it empirically applicable, but also takes account of some of the concerns raised by various critics of deliberative democracy that it is too elitist and places too great normative expectations on discussion participants. The notion of 'possibly being influenced by the viewpoints of others' relates to the conception of rationality within the deliberative model, namely to be willing to change one's point of view upon hearing convincing reasons to do so. This concept has been connected with the listening capabilities of dialogue participants, because this is deemed most logical in terms of when one might change one's point of view.

This way of explicating as well as simplifying the core content of Habermas' theory has several advantages. First of all, it gives a better indication of the exact focus

for the analysis in Part III. Secondly, it also explicates an implied assumption about communicative practices within any form of deliberation. Clearly, the first three of the six bullet points above speak about sending messages, whereas the last three focus on the receiving end. Both ends are extremely important both theoretically and empirically, if one assumes that differences of interests are to be accommodated via dialogue. Yet it makes sense to think of these aspects separately, both to better understand the interests being pursued and the possible power relations between the sending and receiving ends of messages.

Lastly, the above list contains a major implied premiss for the debate, namely *interest* in expressing points of view and listen to those of other people. While Habermas takes for granted that citizens within a given society are interested in achieving a joint democratically reached decision about points of interest to various people, and therefore are interested in voicing their own opinion and listen to that of others, interest should be explicated as a precondition for achieving such collaboration. Issues of Indigenous/mainstream cooperation can be viewed as collective action problems – something which would explain the necessary impetus for mainstream as well as Indigenous groups to participate in deliberating processes. Such an understanding of politics and political decision making processes as attempts to solve collective action problems refers to Benhabib's notion of democracy as described in chapter 6, and at the same time addresses the question of volition in Habermas' theory. The question of interest will be taken up again in the empirical analysis to show that the notion of 'collective action problems' is in fact not far removed from the respondents' own mindset. The question of volition has been added in parentheses in the table below, because it is not part of the theoretical and analytic questions proper; however, it does carry distinct empirical relevance, which is the reason for including it.

Returning to the question of the exact focus for the analysis of actual debates going on within Western Australian and New Zealand society, and how the analysis is suggested carried out, I will further explicate the six sub-recommendations identified above. These six points can be conceived as theoretical variables and be reformulated into separate analytic questions that can be answered using empirical evidence. Thus the

following concrete analytic questions will serve as the model for analysis in Part III, containing the data analysis. Table 7.1 below details this model¹⁷.

Table 7.1: Model for analysis

Theoretical variables	Analytic questions	Empirical evidence
(Interest in expressing one's point of view).	(Do various groups show interest in participating in debates?)	(Who partakes – and who does not?)
Access to express one's point of view.	How does one access the 'system' or debate?	Structural and spatial aspects: Institutional structures, degree of openness, physical location and distance etc.
Opportunity to express one's point of view.	When do people debate?	Temporal aspects: Occasions for debate, political review processes etc.
Ability to express one's point of view.	Who participates in the debates?	Agency aspects: Resource and skills requirements, for example educational, ethnic and family background, questions of legitimacy, representation etc.
Access to listen to other viewpoints and possibly be influenced by them.	How is the wider public kept aware of debates?	Structural and spatial aspects: Variety in form and content of media output, transparency in political decision making processes, legitimising efforts etc.
Opportunity to listen to other viewpoints and possibly be influenced by them.	When and where is the wider public kept aware of debates?	Temporal aspects: Public consumption of media output etc.
Ability to listen to other viewpoints and possibly be influenced by them.	Which abilities do various institutions attempt to nurture in the wider public to further its 'listening capabilities'?	Agency aspects: The role of the educational system and different forms of media in exposing people to various life experiences etc.

¹⁷ The table is built on a series of questions based on how and when debates are carried out, as well as who participates and which abilities this requires. Questions about 'where' could have been included, but are here considered answered on a geographical scale through the choice of setting for the case studies, and on an institutional scale through the examples employed. 'What' is debated is also example driven in the analysis. Negative questions about how, when, who, and where *not* debates unfold constitute running parallel questions in the analysis in Part III.

The column detailing the empirical evidence one may look for in answering such questions has purposefully been left rather open ended, to avoid preempting analytic conclusions. It is quite probable that each analytic question may be answered using even more types of empirical evidence, the above is only meant as an indication of where such evidence may be sought initially. The empirical investigation of ‘opportunity to listen to other viewpoints and possibly be influenced by them’ will be less thorough than the other six aspects in this model. This is due to limitations in the type of data obtained. The temporal aspects involved in public media consumption are not easily measurable through qualitative interviews, and while it might have been possible to procure statistical data about such consumption, this hardly says anything about *why* people choose to expose themselves to various viewpoints, and therefore hardly would reveal any normative grounds for media consumption. Therefore, the analysis will on this particular point be based on indirect measures, namely journalists’ perceptions of the possible impact their stories may or may not have. At the same time, the existence of access (or lack thereof) is also an indirect measure of whether opportunity exists, in the sense that the former is at least a necessary if not sufficient precondition for the latter.

The model makes it possible to disregard whether respondents themselves confess to a deliberative ideal (as this is indeed a theoretical *ideal*, it is highly unlikely to be part of the consciousness of deliberating parties). Rather, focus is on to what extent it is possible to use deliberative democracy as a template to evaluate ongoing interactions between Indigenous and mainstream interests in Western Australia and New Zealand. Therefore, the question is *not* whether deliberative democracy is a possible and feasible solution for gaining minority rights within these two settings. It is whether the presently ongoing interactions can be regarded as deliberative processes. Via this interpretative question, I hope to conjoin the normative and pragmatic goals within this project. In other words, focus will be on looking at whether the preconditions for deliberative interaction between Indigenous and mainstream interests are present within the Western Australian and New Zealand setting. The preconditions here understood as the six theoretical variables developed in the table above, and the answer to be indicated by the answers to the six analytic questions raised in the same table, plus the question of interest.

A follow up to this research question would be whether any experienced differences in succeeding with harmonious coexistence between these groups can be explained by pointing to various degrees of development of the six theoretical variables connected with achieving the deliberative ideal – or whether they might better be explained by pointing to historical factors¹⁸. Table 7.1 will guide the disposition of the entire thesis from here on, the empirical evidence will be unpacked at length in Part III, where the analytic questions will be answered along the way. Part IV contains an evaluation of the relationship between the theoretical recommendations, the analytic questions and the empirical evidence. Before venturing that far, however, Part II contains an explanation of the methodology employed in collecting and applying the empirical evidence.

¹⁸ This question will be taken up at the end of Part III in the specific comparison of the two settings (see chapter 14). However, these two explanations are not necessarily mutually exclusive.

Part II: Methodological considerations

This part of the dissertation details the methodological considerations lying behind various decisions about the design and execution of the case studies undertaken for this project. In brief, chapter 8 details considerations and choices made prior to collecting the material, such as the choice of settings, the focus on Indigenous populations, the use of open-ended qualitative interviews etc. Chapter 9 describes the data collection process and how data has been coded for use in the analyses in Part III.

Chapter 8: A comparative research design

Why compare? And why, indeed, compare Western Australia and New Zealand? The essential reason for making a comparative study is to enhance one's understanding of a particular field of investigation. While the comparison in this study, on the face of it, is of two different national settings, it is of greater importance that it is of two different settings in which an Indigenous group and a mainstream majority are jointly interested in resolving some problems of co-existence¹⁹. Each setting contains several particular instances of experience with attempting to solve such problems. Obtaining and analysing data from two settings will provide an enlarged knowledge-base from which to pinpoint specific traits affecting the efficient solution of such problems of co-existence.

Australia and New Zealand share a number of traits that are influenced by their similar European heritage. Both being former British colonies, they share a number of political, cultural, and social traits. Dogan and Pelassy write specifically about doing binary comparisons that these are 'often used for countries that show contextual similarities, even if the aim of the analysis is to bring out differences in one or more specific fields' (Dogan and Pelassy 1990: 127). However, Australia and New Zealand are certainly not completely similar either; Denoon and Mein-Smith write in their introduction that this is *not* a self-evident region; adding about the relationship between Australia and New Zealand that 'Although each nation's sense of itself hinges on the ANZAC²⁰ tradition – fighting alongside each other in the Great War – each national story seeks to ignore the other' (Denoon and Mein-Smith 2000: 2).

There were several compelling reasons for choosing Australia and New Zealand as case studies for this project. Primarily, the fact that both countries host an Indigenous population whose culture and traditions are remarkably different from British culture as it was exported to this hemisphere in the 18th and 19th centuries. The choice to look particularly at the Indigenous population stems from a logic of 'most different', in the sense that these Indigenous cultures traditionally differ markedly from the political

¹⁹ See chapter 10, which establishes this interest.

²⁰ A list of abbreviations can be found in appendix b.

structures as developed within the Western world – in this case British(-derived) notions of legitimacy and representation. The theoretical assumptions laid out above also indicate a specific interest in Indigenous groups; Kymlicka thinks that Indigenous peoples should be granted more rights than other minority groups²¹, whereas Benhabib thinks that they are hardly likely to be able to survive as distinct groups (Benhabib 2002: 185). This further adds to the proposition that the inclusion or exclusion of an Indigenous minority might be viewed as an extreme test case within the framework of deliberative democracy.

Australia and New Zealand share a common fate of colonisation by Britain, both are settler societies, and both groups of Indigenous peoples have thus seen their societies become dominated by a culture (and importantly, for the purposes of this study, a political culture) that differs significantly from their own. A further important point is the fact that both countries host a large immigrant population; while this study is not directly concerned with their plight, this adds another dimension to some of the debates surrounding rights and rights implementation which spring from the empirical study.

Apart from the perceived similarities, it should also be mentioned that while Australia and New Zealand might look fairly similar viewed from Europe, there are huge differences between them. First and foremost, Australia is a federation with strong state governments resulting in significant political differences between them, and a voting system based on single member constituencies dominated by Labour and The Liberal Party. In opposition to this, New Zealand has abolished its regional structure and now has a central government elected through mixed member proportional representation, with no upper house, and several political parties. So there are many factors impacting on institutional networks and other forms of organisation within these two countries. In addition, there are enormous demographic differences between the two countries, both in terms of population size, and - particularly important for this study – in terms of the percentages of Indigenous people within them. Maori comprise approximately 15% of the New Zealand population, and this number is growing due to differences in birth rates, whereas the diminishing Aboriginal population comprises somewhere between 2 and 3% of the Australian population.

²¹ This view is especially strongly expressed in Kymlicka 2001: 55.

These large demographic differences between Australia and New Zealand can be briefly illustrated with a few facts²². While Australia has a population of approximately 18 million, New Zealand's comprises 3.3 million²³. Furthermore, there are huge differences in size, with Australia encompassing more than 7½ million km², whereas New Zealand only covers roughly 270,000 km². This leaves Australia with a population density of 2.34 people per km², and New Zealand with as much as 12.19. The contrast is even starker if one compares Western Australia – the largest but least densely populated state with New Zealand; I shall return to how this affects deliberative outcomes in chapter 11.1 below.

Adding to these differences, data collection in Australia was concentrated to Western Australia. Therefore, focus is on interaction with the state rather than the federal government for Aboriginals in Western Australia, whereas data was collected in the capital city of Wellington in New Zealand, which has no regional governments anyway. This choice of focus raises further methodological difficulties. I am generally quite sceptical of so-called 'area studies' (Martz in Dogan and Kazancigil 1994: 239-259), because it in any case is problematic to generalise too broadly about what may to an outsider appear like a homogenous field, while an insider is likely to perceive it as quite heterogeneous. Many people in both settings who were told about the study felt it was a comparison of apples and oranges. Considering the fact that focus is on one particular state in a geographically large federation, and the comparison is with data from a rather small nation state, this voice of criticism is understandable. However, the validity of such a comparison depends on its aim. Because of the explicit focus on the *dynamics* of interaction between these population groups, the fact that data from a state within a federation is compared with data from a nation state ceases to be of great importance. Focus is on people's experiences with this kind of interaction, and thus attention will be given to individual narratives or stories about successful or unsuccessful interaction, where the institutional and other frameworks will be part of the analysis rather than perceived as a constant factor.

The choice to look at more than one setting was sparked by an ambition to gain more insight than can be derived from one particular context. On the other hand, the

²² Figures here are based on Denoon and Mein-Smith 2000: 27.

²³ These figures are from 1994. The current figure for New Zealand is 4 million people, which was reached in April 2003 according to www.teara.govt.nz, Accessed on April 26th 2005.

study was limited to two settings, both because that was what seemed humanly possible within the framework of a three year project, but also because the aim never was to put forward a macro-theory generalisable to any country in the world hosting an Indigenous population. The aim is rather a middle-range theory that will be able to say something about success criteria for the model of deliberative democracy, and evaluate people's experiences within the two settings in terms of interacting with each other. Hence the study is not designed to produce results generalisable to any national setting including an Indigenous population²⁴. The goal is not the comparison itself, but the understanding derived from it. While some respondents expressed an almost evolutionary view on the type of interaction under investigation (in the sense that New Zealand was perceived to be at a more advanced stage than Australia), this is a model that gives cause for scepticism – exactly because such an evolutionary view would plunge the study directly into macro-theories that are all too easily falsifiable.

Kohn distinguishes between seeing a particular (national) setting as the *object* of study vs. *context* for study, '... where nations are the *object* of study, the investigator's interest is primarily in the particular countries studied' (Kohn 1987: 714, original emphasis). This he contrasts with cases where the nation is perceived as context, 'In such research, one is primarily interested in testing the generality of findings and interpretations about how certain social institutions operate or about how certain aspects of social structure impinge upon personality' (*ibid*). In this study, the nation is perceived as context; adding the further tag that the context can be either an entire nation or a particular state, and that 'how certain social institutions operate' can be interpreted as both concrete legislated procedures as well as more subjectively perceived experiences with interactions within institutional and non-institutional settings where minority inclusion is negotiated.

Discarding the option of looking at the nation as the *object* of study, also means that I will give only a very skimpy account of those few historical contingencies which impact significantly on the field of research. With specific view to the object of study, namely the interaction between the Indigenous minority and the mainstream majority in both countries, a few brief comments on the relationship between each nation and the studied minority will suffice. Probably the most important difference here is the

²⁴ However, the analytic tools developed for the study (see chapter 7 and the introduction to Part III) are intended to be generally applicable.

difference in comparative size between the two population groups: Maori comprise a growing number of the New Zealand population (ca. 15%), while Aboriginals comprise approximately 2% of the Australian population, however, with slightly more in Western Australia (ca. 3%) and significantly more in the northern part of Western Australia, the Kimberleys, where the Aboriginal population makes up about 33% of the entire regional population.

Further important factors – more historical in this case – is the fact that the Maori population in New Zealand are themselves a settler people, probably originating from the Pacific Islands. This Polynesian people is believed to have arrived in Aotearoa around 1350 AD, and thus had in fact not been that long in the country when the Europeans arrived. They formed one unified people, divided into warring tribes, but shared a common language and similar religious and cultural traditions. In stark contrast to this, the Aboriginal population in Australia lived in numerous partly isolated tribes at the time of European colonisation. An estimated 500 different languages divided into 31 language groups were spoken, and huge differences in living conditions and traditions existed between these peoples living on the vast expanse that the continent of Australia is²⁵.

The preconditions were different, and so was the treatment given the Indigenous populations by the British settlers. Avoiding great detail, it is important to briefly note that Australia was declared *terra nullius* by the British Crown, and thus literally up for grabs, while a treaty was entered into with a number of Maori leaders, supposedly legitimising British presence in the country. The impacts of this will be commented on where relevant in the data analysis in Part III; certainly, the British approached the Indigenous populations in these two countries with very different attitudes. While not diminishing the atrocities committed against the Maori people, they were not to the same extent subjected to the harsh treatment to which many Aboriginal groups fell prey. Generalising broadly, Maori also showed more organised resistance to British rule, and in fact conducted a series of wars against the British, especially during the 1860s. In the case of Western Australia, it is particularly important to mention the practice of removing half-caste children from their Aboriginal mothers and send them to mission stations and white homes to ‘make them white’. This is the phenomenon many

²⁵ The above facts are based on Philips and Thornberry et al, 1995. See also www.teara.govt.nz accessed on July 6th 2005.

Aboriginal people and some white Australians refer to as ‘The Stolen Generation’, and it was a particularly widespread practice in Western Australia right up until the early 1970s. This is important to mention, because it still impacts on family and tribal structures in present day Western Australia.

Apart from the decision to do a comparative study, a number of other important decisions about the research design for this study had to be made. The main point of criticism against the liberal and communitarian approach was that they both failed to produce any practically applicable guidelines for minority accommodation. In view of the temporal and geographical limitations inherent in the field of investigation, a tight research design was of the essence, and this design would have to take its starting point in the theoretical findings. While some would dismiss such an approach as ‘theory testing’, I wholly distance myself from the notion of ‘grounded theory’²⁶ (Strauss and Corbin 1998), which is both implausible and naïve. The methodology instead follows the recommendations of Yin (1994), who states that in contrast to ethnographic studies, case studies will often be based on some prior theoretical development, partly due to the pragmatic consideration that whom would be relevant field contacts will depend largely upon the theory of what is being studied. In this case, the choice of the model of deliberative democracy as a possible normative guideline for giving groups access to political decision-making, dictates a focus on people who have in fact attempted to deliberate along democratic lines. On the general question of applying a priori theory or not, one might also take the approach recommended by Maaløe (2002), an approach which he labels ‘explorative integrative design’. The idea behind this model is to do a combination of theory testing and theory development by consciously approaching the field with a number of theoretical predispositions, but also being ready to revise these when meeting new evidence. This has the advantage of forcing the researcher to be well prepared but also to be open towards new ideas.

The conclusion to Part I was that while old dichotomies of liberalism vs. communitarianism within the field of minority rights more or less seem to have absolved themselves without providing much in the way of practical guidelines, the model of deliberative democracy might provide a more fruitful approach to judging democratic progress within the area of minority rights. This leads to the question of

²⁶ In brief, the notion that theory should be based on collected evidence, rather than collect data to test a theory.

whether deliberative democracy works in practice. Methodologically, this translates into a question of how one may trace and evaluate interaction processes between Indigenous and mainstream groups. To answer this question, one obviously has to go directly to the horse's mouth, in this case those sections of the Aboriginal and Maori populations in Australia and New Zealand who are trying to have their voices heard in local political debates. To this end, a qualitative approach was the most obvious choice, because positive or negative experiences of interaction hardly are quantifiable. A good way to systematise the collection of interviews would be to follow Addis' point that there are three major areas in judging the deliberative democratic model (Addis 1997): law, media, and education. For an easy way to illustrate this idea and systematise data collection, I devised the following matrix, based on Dahler-Larsen's recommendations in *At fremstille kvalitative data* (2002), where he speaks about how much can be gained from trying to visualise both the data one is planning to get, and also the data actually collected.

	Australia	New Zealand
Law		
Media		
Education		

This matrix, of course, does not do the trick in itself. Decisions still had to be made about the kinds of data collection methods used for investigating each of the key areas of deliberative democracy pointed out by Addis. One option would have been a combination design, combining various types of data, but this would mean that different validity criteria would have to apply to different types of data, and therefore this option was discarded. The following matrix illustrates the design opted for. Addis' term 'Law' was changed into 'Governance'²⁷ out of a concern that looking at 'Law' would be too static an approach, considering that the aim was to investigate *dynamics* of interaction between the population groups.

²⁷ Partly following (Erikson and Weigård 2003: 250), 'governance' is here conceptualised as designating steering both within and beyond public law. This means that it is a multi-centred view on what constitutes governance, highlighting the role of non-governmental actors such as voluntary organisations, social movements, local steering organs, etc. in contributing to political enterprise.

	Australia	New Zealand
Governance	4 interviews	4 interviews
Media	4 interviews	4 interviews
Education	4 interviews	4 interviews

This design has the great advantage of being simple and sticking to the qualitative approach, which helps keeping the validity criteria and premisses for good research conduct clear. The next question logically became whom to interview. This question was closely connected with the rather narrow qualitative approach; limiting myself to (approximately) 12 interviews per country meant that I had better interview people who knew what was going on!

Obviously – as is always the case with qualitative studies – this approach is vulnerable to the charge that nothing can be generalised from this small number of interviews. Even so, this design is justified. First of all, the idea that there should be four interviews within each box in the matrix did not mean that this was a rule never to be departed from in case interesting new possibilities presented themselves. The matrix should not be regarded as a straightjacket, but rather as a guideline – the geographical and temporal limitations to the fieldwork forced me to think in practical terms. Furthermore, a number of possible cross-purposes exist within the matrix. Maybe an interviewee within the governance sphere had by chance involved him/herself in educational planning, and very probably he/she would have something to say about media treatment of his/her topic of interest. Also NGO leaders were likely to have an opinion about how their cause was being represented in the media. In this way, the matrix includes inherent possibilities for vertical triangulation among different respondents within the boxes – in other words, respondents within the same national setting should be able to supplement each other on important points. In general, it is important to use different informants, and different sources for describing the same state of affairs. This can be covered both by interviewing people in different positions within each box in the matrix, but also by the different possible cross-purposes identified.

Secondly, it was still possible to check findings against secondary sources such as law reviews, official school curricula and other formal and semiformal documents,

which is another form of triangulation. This would not constitute a violation of the qualitative approach, and indeed many methodological writers recommend doing document analyses as a supplement to interviews. For example, Yin (1994: chapter 4) lists document analysis as a major source of data in qualitative studies²⁸. This approach had the further advantage that it did not require my actual physical presence in Australia/New Zealand, so it was possible to add data after returning from the field trip.

A third possibility also presented itself, namely to rely on previous studies of the area to supplement my own results. Obviously, research done for other ends is hardly ever directly transferable, but in the case of the research institutions I visited in Perth, Western Australia and Wellington, New Zealand, they were interested in some of the same issues. Thus, the academic environment in itself might also point to interesting data sources. In addition, published academic work on specific areas of interest (eg. Indigenous relations with the media or education system) will supplement data in parts of the analysis in Part III.

The above paragraphs go some way towards consoling the researcher primarily concerned with issues of representativeness; but it is also possible to justify this research design within the framework of the specific research question and qualitative approach. The point is that results do not necessarily have to be applicable to other areas – it will be a specific investigation of the state of affairs for Indigenous populations in two particular localities, and their experiences with attempting to gain access to and influence upon the policy-making processes in their areas. Whether or not the findings can be transferred to other groups in other places can best be decided by these groups themselves; however, the actual study design should be transferable.

The methodological literature on case studies and qualitative designs presents a number of varying validity criteria, not all of which I subscribe to. Making myself accountable to some main criteria, the primary concern is to ensure a transparent design, and clearly state the reasons for this particular design and how it reflects on prior theoretical considerations. This is the purpose of the present chapter. It is important to present the design in a transparent way, so that it would in principle be possible for others to follow the same route and reach similar conclusions. All good research should include a self-reflexive account of how results were reached, which is also an important

²⁸ See also Hodder, 'The Interpretation of Documents and Material Culture' (in Denzin and Lincoln 2000: 703-715).

standard here. Another way to assure accountability is to keep a research diary in which to note changes in one's design and attitude to research related questions and concepts. The diary in itself would not be part of the thesis proper²⁹, but an additional data source in which to check one's evolving conceptions. Hence it becomes a measuring rod by which to judge one's conceptual changes.

A further very important validity criteria lies in the idea of member checks, recommended both by Patti Lather and Erik Maaløe³⁰. There are several possible layers to member checks, each involving a different level of accountability for the researcher. The primary level pertains to the simple issue of whether respondents are able to recognise their statements in the researcher's rendering. This I checked with respondents by sending them a copy of the transcript from the interview. This was both a way of checking the validity of data, but also a way to let respondents elaborate on previous statements and expand on data if they wished. Actually, only very few respondents took this opportunity. Another possible step in the member check process would be to send respondents those parts of the draft thesis that pertains to their statements and situation. Considering the low response rate for the initial check, this option was discarded.

It is a driving impetus for qualitative researchers that even if a study contains no statistically quantifiable results, it can nonetheless provide interesting information. 'Potential for learning is a different and sometimes superior criterion to representativeness. Isn't it better to learn a lot from an atypical case than a little from a seemingly typical case?' (Stake in Denzin and Lincoln 2000: 446). In this case, the interest is generated not only by a description of the level of political influence of Aboriginals and Maori in their settings, but also by the theoretical contribution in the form of an evaluation of to what extent the model of deliberative democracy is useful in analysing empirical examples of minority/majority interaction. The best case scenario would even suggest that it might be possible to point to some features that would enhance or hinder political participation for such groups – in that case reaching the

²⁹ Dated between September 9th 2003 and June 29th 2004 and running to a total of 45 pages, it is possible to follow ups and downs of my data collection experiences for anyone interested. A copy is available for opponents upon request.

³⁰ See for example Lather and Smithies 1997, or Maaløe 2002: 2, note 5.

ultimate goal of the explorative integrative model, namely a combination of theory testing and theory building (see also chapter 16).

On the issue of selecting specific respondents, the chosen approach was to search the internet for NGOs and other relevant groups and preselect a prioritised list of names of possible interviewees. This was supplemented by suggestions made by contacts in Australia and New Zealand. Based on the limited number of respondents that would be involved, it was apparent that they had to be selected with care. The selected research design dictates a focus on the somewhat elitist segments of Aboriginal/Maori society – i.e. those who actually attempt to partake in/influence mainstream political decision-making, and therefore have experiences to tell about. This also held true for non-Indigenous respondents. Habermas has frequently been reproached for placing too high demands on participants in public deliberation (see the debate in chapter 5). Respondent selection to some extent meets these requirements, in the sense that most respondents were well-educated and often held high ranks within either ministries or organisations.

While Habermas emphatically dismisses an all-out reliance on so-called experts, he also acknowledges that they will in effect often impact on political decision-making. While the majority of respondents probably would not characterise themselves as experts³¹, they all held positions that would enhance their knowledge about my particular area of interest, namely Indigenous/mainstream interaction. In that sense, I hope to have been able to walk the line between relying on armchair experts and popular opinion, by interviewing ‘experts’ who had everyday working experience with these issues.

A preliminary consideration concerned permission to record interviews. I had to establish an understanding with interviewees concerning the nature of the project and my dependence upon being able to use data both for direct quoting and to use in analyses. As both of my two host institutions insisted on using formal interview agreements when doing research interviews, I followed their guidelines. A copy of what these agreements looked like can be found in appendix c and d. Only one interviewee refused to let me record, and none of the respondents asked for anonymity. Due to the nature of the case study, most interviewees were involved in politics and/or the media,

³¹ No one claimed to have found the golden solution to Indigenous inclusion in democratic decision-making.

which was likely to make them naturally interested in having their opinions known. Local readers of the final analysis will very likely be able to identify certain individual respondents. However, while the professional affiliations of the individual respondent within the decision-making system in either setting often plays a great role in the analysis, their personal affiliations rarely do.

Concerning the reception of the finished report, I agree with Yin that it is important to keep one's potential readership as well as one's personal motives in mind when starting to write. Potential local readers will probably evaluate the usefulness of the study rather differently depending on their personal stances on the issue of Indigenous involvement in decision-making. The study is not meant as a tool-kit to give suggestions about how to repair any possible flawed relations, and does not constitute action-oriented research. Rather, the aim is to trace some practical experiences with mainstream/Indigenous interaction to reach a better understanding of whether deliberative democracy can work in practice. Yin states that case studies have a greater potential audience than traditional research, and that mere description in itself might influence one's field of investigation. However, I want to clearly distance myself from the action oriented type of research described by Fine, Weis, Weseen, and Wong (in Denzin and Lincoln 2000: 107-131). Their driving question is for whose benefit research is being conducted? They want research to promote social justice and responsibility. These may be relevant ethical standards, but I disagree that research should aim to make specific recommendations to politicians, although strong research results may in some cases suggest a course for political action. The aim with this study, however, is first and foremost to investigate whether the model of deliberative democracy could be a useful template to evaluate ongoing processes of interaction between Indigenous and mainstream groups in the two settings. In extension of the deliberative approach, any possible application of results is best left to dialogue partners themselves.

Chapter 9: Data collection and methods for analysis

One thing is writing a chapter for a Ph.D. thesis on methodology, another thing is collecting the actual data needed for the project. It is clear that the matrix presented in chapter 8 is an ideal type, derived from the theoretical framework. It was intended more as a useful guideline, especially in securing progress in my work, rather than as a constraining factor. In other words, I arrived in both countries with a fairly pragmatic attitude towards the data collection process. This pragmatism had prompted me to contact various academics at both universities I visited (Murdoch University, Perth, Western Australia and Victoria University, Wellington, New Zealand) before my arrival. These contacts proved highly useful in supplying me with names of potential interviewees. I then spent some time researching the names I was given, and this combined with internet searches conducted at home before my departure resulted in a new matrix in each country, this time filled in with the names of possible interviewees.

These matrices went through several revisions in each country, largely dependent on the availability of contacts. A final version of the matrices can be seen below for both settings. These matrices contain identifying information, but as Yin writes, anonymity is not a desired outcome, and furthermore it is an arduous task to disguise identities (Yin 1994: chapter 6). However, I shall only use respondent initials, because there is no point in using full names. While many local readers might guess the actual identities of respondents, their professional positions are much more important than their names in this research context. Most of the interviews were recorded, and in those cases respondents all signed a consent form. The majority of interviewees were highly educated people, and several of them had either been interviewed before, or were otherwise familiar with local research practices, including the use of consent forms. Therefore, it is not my impression that the use of these forms influenced what people told me.

All interviewees have been sent a copy of the transcript of our conversation. While most people replied with a thanks to receiving the transcript, only a handful appeared to have actually read it, and out of those only very few had any comments to make. However, the exchange was useful as it kept me in contact with people a little longer; and – on a purely pragmatic note – it often helped clarify spellings of Aboriginal

and Maori words used by interviewees, and these were important to spell correctly in order to show proper interest and attention to detail.

In the two matrices reproduced below, respondent initials and position is included to give an overview over whom was interviewed. The use of acronyms at this stage may be confusing (a list of abbreviations is included as appendix b), but hopefully people's affiliations will become clearer in the analysis in Part III. As described in chapter 8, Addis' original category of 'law' has been changed to 'governance'. This is meant to imply several things. Firstly, focus is on dynamics rather than outcomes of deliberative processes, and looking at 'law' would provide a static view of the situation. Furthermore, I am not qualified to evaluate any possible legal changes. Thirdly, the main interest is to conduct a qualitative investigation of how involved representatives from various sides in society experience exchanges between majority and minority groups, and it was more appropriate to group these people under the heading 'governance' rather than 'law', in the sense that very few were directly concerned with law and focused more on daily interaction. Thus, both respondent attitudes as well as the research focus suggested that it would be more appropriate to think of this particular sphere of deliberation as 'governance' rather than 'law'.

Figure 9.1: Interviews conducted in Western Australia between March 3rd and May 13th 2004

Governance	Media	Education
AE, Advisor to the Minister for Aboriginal Affairs	AB, SO, MB & BR Perth Indymedia Collective	JHI AICS coordinator, Broome
CH & GP Chief Executives ATSIC, WA	DW & KF Radio Goolarri, Broome	RS, Director of the Aboriginal Education Directorate
JL, secretary for the only Aboriginal MP in WA	CW, journalist at The West Australian	JH, Principal, Independent School in Coolgardie
WT, lawyer working for SWALSC	KB, journalist at SBS Radio	
IS, Department for Community Development	SM, academic specialising in media analysis	
JC, Department of Cabinet and Premier		
LD, Head of the Anti- racism Committee		

Looking at this matrix for interviews in Western Australia, it is clear that I have departed from the 3x4 design. The original 3x4 design, however, was primarily meant as a guideline to secure progress and spread in the number of interviews obtained. The number of interviews within the governance sphere greatly exceeds the original plan, and this is partly due to the fact that academic colleagues at Murdoch proved very helpful in supplying contacts. Furthermore, the sphere of governance and the university environment in Western Australia were rather attuned to one another, and as data will show, policy developers were aware of theories of deliberative democracy and multiculturalism. In addition, people from the governance section were very open to meet me. While this matrix does not include rejections, only one major alteration of plans occurred within the governance sphere, and this was in the interview with JL, where I originally had an appointment to interview her boss, Carol Martin, who is the only Aboriginal MP in Western Australia, and the first ever female Aboriginal having been elected to a state parliament. Because I was given some useful dooropeners by way of references from academics, and because the Western Australian governance system largely appeared open, I conducted more interviews here than originally planned.

The distribution of NGOs vs. government representatives turned out differently than originally envisaged, with fewer NGO representatives than planned. There are two reasons for this. First and foremost, any true non-governmental organisations are hard to come by in modern liberal democracies, as many of them are in fact (partly) supported by government funds. A case in point here would be the status of ATSIC as a federally funded body, and yet as a representative of Aboriginals in negotiations with state and federal governments. The second answer is purely pragmatic: government representatives proved much easier to get in contact with than expected, because several institutions had specific positions for liaison officers or other people directly responsible for government/Aboriginal interaction. This was also the case in New Zealand.

Within the area of media, the matrix does not quite do justice to the actual number of interviews, as sessions with AB, SO/MB and BR were conducted separately. The most surprising column in the matrix is the one on education, where very few people agreed to an interview, and where I had my only downright rejection (most other people simply declined to answer). Here I only carried out 3 interviews out of 8 people contacted. A possible explanation was that they did not perceive their work to be central to the issue of democracy and minority inclusion. Data shows that much more attention appears to be paid to the specific inclusion of Maori children in the New Zealand education system compared to the inclusion of Aboriginals in the Western Australian system. The number of women and men interviewed is equally distributed, with 10 women and 10 men, but only 6 people who self-identified as Aboriginals out of a total of 20. The comparable distribution in New Zealand was 9 women and 7 men, but an equal distribution of Maori/Pakeha, with respectively 8 and 8 people.

Figure 9.2: Interviews conducted in New Zealand between June 2nd and July 5th 2004:

Governance	Media	Education
JH, at The Department of Maori Development	KM Wellington Indymedia	SA, SD, TH, SH & OH From NZ Education Institute
ME, recently retired from Department of Justice	GJ, journalist at The Dominion Post	LP Principal at government school
BR, historian at Waitangi Tribunal	CL Radio reporter, Radio NZ	MP, coordinator Pouwhakataki, Ministry of Education
MP, representative for the Ngati Toa tribe	CA Journalist at Mana News	
AH, CEO for the Office of Treaty Settlements		

Evidently, this matrix much more closely resembles the design matrix with 3x4 interviews. This was partly due to the fact that I had by then become rather busy and possibly also more skilled in getting the interviews I wanted in the first place. Hence these 12 interviews were conducted between June 2nd and July 5th 2004 according to the same procedures as in Western Australia.

As already stated, the majority of interviews were recorded (with the consent of the interviewee). The few I did not record were in most instances because it was not practically possible (I was being shown around or we were sitting in a noisy place etc.), and only in one instance did somebody refuse to allow me to record (JH³² from New Zealand), and in one instance my recorder failed me (JHI from WA). These recordings were usually transcribed straight away, and in most cases interviewees received the transcript for review within a week. This provided a lot of positive feedback from people who apparently felt that their time had been well-spent. Yet, I do not presume they had all actually read the transcript.

The method of transcription was pragmatic. As I would not conduct a detailed linguistic analysis of data, all the ‘ahs’ and ‘ohs’ of the recordings were not included, and only in cases where the text does not make sense without them, comments are

³² Although initials coincide in a few instances, distinguishing between people in the actual analysis should not be a problem.

included on body language etc. Firstly, such a detailed way of transcribing does not serve any purpose for the type of thematic analysis the interviews will be exposed to. Secondly, the texts would look odd if all these details were included – and perhaps barely recognisable for the interviewees themselves. Hence, I wrote down a text which is true both to the content and the tone of what was said, without necessarily including all the oddities that sometimes appear in spoken rather than written language. On the issue of denotation within the analysis: omissions in quotes it will be marked by [...], whereas longer jumps where I as interviewer have said something in the meantime will be marked with [...//...].

Besides the 29 interviews (a few were conducted in groups), a lot of other different types of data were collected; primarily newspaper clippings on every conceivable topic even remotely related to the research agenda from two months' subscription to *The West Australian* and one month to *The Dominion Post*. This material is *very* expansive, and will only be included in brief – for example in connection with the two interviews with journalists responsible for the Aboriginal/Maori rounds of these two newspapers. In addition, letters to the editor each day from these two newspapers have been retained, as these constitute another possible indicator of the state of deliberation within the two settings. Furthermore, data will in a few instances be supplemented with academic publications on the topics under investigation, however, retaining focus on the qualitative data obtained for this particular study. Other sources of data include a large number of official government publications from various departments and ministries, and other publicly available material such as information from homepages etc.

Focus for the remaining few pages of this chapter is on explaining the methods of coding and analysis used in the application of data. While there is undoubtedly a lot to gain from exposing interviews to a close linguistic analysis in line with Fairclough's critical discourse analysis (see Fairclough 1992) or Potter and Whetherell's discourse psychology (Potter and Whetherell 1992), this would not be the best way to go about answering the research question of to what extent the model of deliberative democracy can be used as a template to evaluate ongoing interaction processes between mainstream and Indigenous groups in Western Australia and New Zealand. Focus is on gaining a broader picture of the state of deliberation or interaction between groups in society

rather than any close and detailed analysis of how individual respondents might talk about this issue. The aim is to go above and beyond the level of individual use of words and phrases or individual feelings relating to this issue. Therefore, neither critical discourse analysis nor discourse psychology are appropriate as an overall strategy.

The interview method was very open-ended (cf. Kvale 2002). Being much more interested in finding out how interviewees themselves would describe the interaction between relevant groups, I purposely never introduced the concept of deliberation. Hence data primarily contains themes introduced by respondents, and I rarely introduced an entirely new topic, other than in a few instances asking about relationships with the media, if respondents did not touch upon it on their own accord. No interview guides were used, and focus was on getting respondents to speak about their work experience with Indigenous/mainstream interaction – experience that had already been preestablished through respondent selection. The primary value of data lies in looking at the themes respondents introduced in the conversation – which they were then often asked to expand on. Therefore, data will be analysed in thematic clusters throughout Part III, drawing both on my own development of coding categories, but also on what Strauss and Corbin call *in vivo concepts* – that is, concepts introduced ‘live’ by respondents.

The main section of this entire project is Part III, which contains the data analysis. It is subdivided into four chapters, relating to questions of *interest*, *access*, *opportunity*, and *ability* to partake in debates, which were the four analytic questions identified in chapter 7. Each section will be a running comparison of data from Western Australia and New Zealand; and finally, in chapter 14, a summary of results from each setting will serve to give a joint overview of the state of interaction between Indigenous and mainstream interests in these two cases.

Before progressing to the analysis, data has to be coded. This has been done according to important themes within data. This is necessarily a rather selective process, as the primary data of interview transcripts runs to roughly 350 pages in total. While a few themes were picked up on already during the interview sessions, many more became apparent later. Hopefully, the fact that most of the data was more than 6 months old before starting the coding process, helped me keep a critical distance from it. Furthermore, the material has been repeatedly reviewed to look for more evidence, and

especially look for contradictory evidence to try to make sure not to draw any one-sided conclusions.

The coding practice followed the recommendations of Lather, Strauss and Corbin³³ and others. Thus, I have repeatedly gone through data looking for recurrent themes, noted down quotes relating to these themes and arranged the presentation of data thematically, in the manner recommended by Strauss and Corbin as ‘open coding’. ‘Open coding’ is defined as a coding system that is not fixed to well-defined categories, but where categories are left relatively open or entirely new ones may be developed, based on either concepts used ‘live’ by respondents or concepts developed to cover thematic clusters identified in data by the researcher. The use of codes is primarily meant to reduce the complexity of the data to manageable categories, while keeping in mind that these categories can show great internal variation. Several of the themes or categories discovered during the coding process are heavily interconnected, and any interconnections will be pointed out. The approach is to focus on the words and concepts used by respondents themselves, looking at the stories or processes explained to me, and evaluating these in comparison with theories surrounding deliberative practices.

The focus on longer narrational sequences is also the reason for not opting for a computer assisted qualitative data analysis system (commonly referred to as caqdas). The aim was to retain a much more open approach to data than a computer assisted analysis could supply, in view of the fact that you have to programme the computer to look for a priori defined categories. Furthermore, caqdas systems are better suited to analyse written texts, where people have had greater time for reflection before using a particular word than the case is with oral data, where people might use words and concepts in a less stringent way. Finally, many respondents self-identified as Aboriginal or Maori, and there is no doubt that several of them (probably consciously) used a rather idiosyncratic form of expression, often using more or less alternative forms of English. These nuances are exceedingly hard to grasp using any form of analysis and transcription system, and using a computer assisted analysis system would push these nuances even further beyond reach.

³³ Strauss and Corbin 1998: chapter 5, ‘Analysis through microscopic examinations of data’. Lather in personal communication about the working processes involved in Lather and Smithies 1997.

Attention to narratives in the actual transcripts is not directly transferable to the other types of data, i.e. neither newspaper articles nor government publications. Furthermore, one can hardly speak of *in vivo concepts* in these cases. To the extent that these texts will be included, however, they will also be coded thematically. Themes here are somewhat different, or at least differently presented. Focus will be on the actual content of government publications in their own right, in relation to whether they indicate deliberative practices. But any possible discrepancies between declared practice and what respondents said will also be pointed out. When it comes to analysing the media texts collected, these have a somewhat different status. First and foremost, media texts are not to be considered authoritative statements in the same sense as government publications – whether some readers might read their newspaper in this way is another matter. The included newspaper articles mainly serve as a supplement to interview data, because the amount of articles could provide material for a whole study of Indigenous relations with media in itself.

Concerning the presentation of data in Part III, various recommendations made by qualitative researchers have provided inspiration. As several of them point out, one of the major advantages of doing case studies and qualitative work is that the potential readership for such studies is much greater than for traditional research reports. Though one obviously has to retain a critical distance to one's data, I see no problem in following Yin's recommendation to let enthusiasm pervade (Yin 1994: chapter 6). Potter (1996: chapter 11) places special emphasis on the need to contextualise data adequately to be able to present any meaningful analysis of it. Here he is thinking not only of the position of the interviewee (nationally, locally, institutionally etc.), but also of the relationship between interviewer and interviewee. On this note, a great deal of self-reflexivity is required when presenting and analysing data. Concerning the relationship between interviewer and interviewee, I am in the fortunate position to have conducted all the interviews myself, and can compare the actual transcripts with notes made in the research diary. The fact that I travelled from Denmark to Australia and New Zealand to conduct interviews also appeared to influence the researcher/respondent relationship. For example, many respondents started sentences with 'what you can't possibly know is that' etc. In this connection, it was probably also important that I was considerably younger than most respondents, who sometimes used a somewhat

condescending tone when talking to me. This was to my advantage, as I was probably told some home truths they would not have let me in on, had they perceived me as any kind of threat to their own position.

In extension of this, Laurel Richardson rather succinctly points out that writing is a method of finding out about oneself and one's topic; it is *not* just a mopping up activity at the end of a research project. In other words, self-reflexivity is a minimum requirement. In fact, this statement goes hand in hand with Maaløe's recommendation that one should use an explorative-integrative design in case studies. I.e. remaining open to new possibilities and continually revise theory and data analysis to explore their content and integrate their various aspects. In Laurel Richardson's forceful formulation, 'Those holding the dinosaurian belief that 'creative' and 'analytic' are contradictory and incompatible modes are standing in the path of a meteor. They are doomed for extinction' (Richardson in Denzin and Lincoln 2000: 930).

Part III: Empirical findings

Summing up progress so far, the conclusion to Part I was that traditional liberal and communitarian notions of minority rights offer little by way of practical guidelines to accommodate difference. The suggestion was that Habermas' notion of deliberative democracy, while still highly theoretical, could be viewed as a better way to attempt to accommodate such differences. The next bridge to cross became the question of how to make use of Habermas' theory in an empirical study. This was the problem attacked in chapter 7 above, where a model for analysis of empirical data was developed. This model is the basis for Part III, where the analytic questions from table 7.1 will be answered by looking at the empirical evidence suggested in the same table.

How this evidence was collected and what thoughts lay behind going for exactly the type of data assembled, was the subject of Part II. Hopefully this part on methodology has provided sufficient assurance to the reader of the ensuing analysis that the data has not been consciously engineered to preempt analytic conclusions. As accounted for in Part II, interviews were conducted within three 'spheres of deliberation', namely governance, education, and media. Data from these interviews will be applied in the analysis according to how it can contribute to answering the analytic questions from chapter 7, namely

- How does one access the 'system' or debate?
- When do people debate?
- Who participates in the debates?
- How is the wider public kept aware of debates?
- When and where is the wider public kept aware of debates?
- Which abilities do various institutions attempt to nurture in the wider public to further its 'listening capabilities'?

In Part III, the data analysis will unfold according to these theoretical variables, namely the three categories of *access*, *opportunity*, and *ability* to partake in debates. These three categories will form the bulk of the analytic development. However, first there will be a

short introductory chapter establishing the groups' interest in participating in such debates, as this was identified as an important implied premiss in Habermas' theory - and therefore a prerequisite for analysing access, opportunity, and ability to debate.

In other words, the ensuing analysis will unfold according to the logic of the analytic model rather than according to which 'sphere of deliberation' I am applying data from. This means that in some cases data from for example media and governance will supplement each other in answering a specific analytic question. So the analysis will cross professional boundaries, as none of the spheres of governance, media, and education can be viewed in isolation, because the empirical world is a world of interaction. Furthermore, from a theoretical point of view, the million dollar question is whether access, opportunity, and ability to participate in debates overall are present in a given society, not whether they are present only within a given niche of society, for example the sphere of education.

Chapter 7 contained a table giving an overview of the theoretical variables, the analytic questions raised by these, and the empirical data one might look at to find the answers to these questions. These analytic questions stand very much in a dynamic relationship with one another. To capture some of that dynamic flow and the interrelationships in the data, a model will be developed to illustrate this and at the same time help visualise some of the points in the ensuing analysis. This model is based on four different components, namely 'listening', 'expressing', 'individuals', and 'collectivities'. These components are derived from the theoretical considerations presented primarily in chapter 7. Here a list of six different bullet points containing the major variables in an investigation of the notion of deliberative democracy was presented. Explicating these points highlighted the communicative practices inherent in the model of deliberative democracy, hence the first three points clearly referred to being able to *express* points of view, whereas the latter three concentrated on the receiving or *listening* end of communication. Thus, when analysing potentially deliberative practices, it is important to think of them as containing elements of both expressing and listening.

These components of 'expressing' and 'listening' can also be explained in less theoretical terms as in fact being respectively the arenas for debate and decision-making and the mediating arenas. In other words, an analytic distinction is maintained between

those areas of deliberation in which interests are being voiced (for example political decision-making fora or the media) and those areas in which information about decision-making and interests is made available to the wider public (for example via the mass media or the education system).

A second look at the analytic questions from tabel 7.1 makes it apparent that besides the distinction between expressing and listening, there also is a distinction between individuals or smaller groups of people and larger collectivities, cf. formulations in the table about ‘one’ versus ‘the wider public’. This is a distinction which is both theoretically and empirically plausible. From a theoretical point of view, Habermas’ recipe for a masterless dialogue prescribes the behaviour of individual rational partners in dialogue: ‘Everybody can freely express his/her attitudes, wishes and needs’. These are individual preferences, which have to be justified collectively – if they cannot be so justified, the collectivity can dismiss them as being irrational and therefore not meriting recognition.

From an empirical point of view, it is also advisable to distinguish between individuals and collectivities. If *everybody* wants to have their opinion heard on specific policy issues, it would simply stall the system completely. Therefore, collectivities have a tendency to assign authority to individual representatives who can express preferences on behalf of the group. Individual representatives may oscillate between representing and being represented, but the functional division tends to persist if the collectivity is sufficiently large. Whether I am speaking of the 1.6 million people living in Western Australia or the 4 million people in New Zealand is irrelevant - both populations are too large for everyone to get speaking time³⁴.

One further important point to make about the distinction between individuals and collectivities is that not only may the position of ‘individual’ be taken up by different agents in the model below, but the same goes for ‘collectivities’; hence the plural form of the noun. Putting it in plural underlines the fact that the ‘collectivity’ referred to in single cases of deliberation may vary according to the subject being deliberated upon. Thus, in some cases, the collectivity will explicitly be the Indigenous population in either Western Australia or New Zealand, to which their individual representatives will be held accountable and which will act as receivers and senders of

³⁴ I realise that I am skipping several important theoretical or philosophical assumptions here, but wishing to retain a practical focus, this is a justified statement to make.

political messages etc. At other times, the relevant collectivity might be the whole population in the city/state/country, children in the education system etc.

The purpose of the model is that it should be broad enough to facilitate a description of *any* potentially deliberative practice in any potential setting, and not just in the two settings under investigation here. Therefore, the components are indeed *the basic components* of any deliberative practice. They shall be regarded as ‘placeholders’ that might be taken up by various individuals, groups, and institutions according to which example or relationship one is focusing on in the analysis. In sum, there are four major analytic components to investigating deliberative practices, these being *individuals*³⁵, *collectivities*, *expressing* (decision-making arenas), and *listening* (mediating arenas). These components can be illustrated in the following manner.

³⁵ This is not meant to be understood as single persons speaking alone, but as one or more representatives speaking on behalf of others. The components of this basic model have been necessarily simplified at this stage to allow for further developments later on.

BASIC MODEL



1. INDIVIDUALS
2. DECISION-MAKING ARENAS
3. COLLECTIVITIES
4. MEDIATING ARENAS

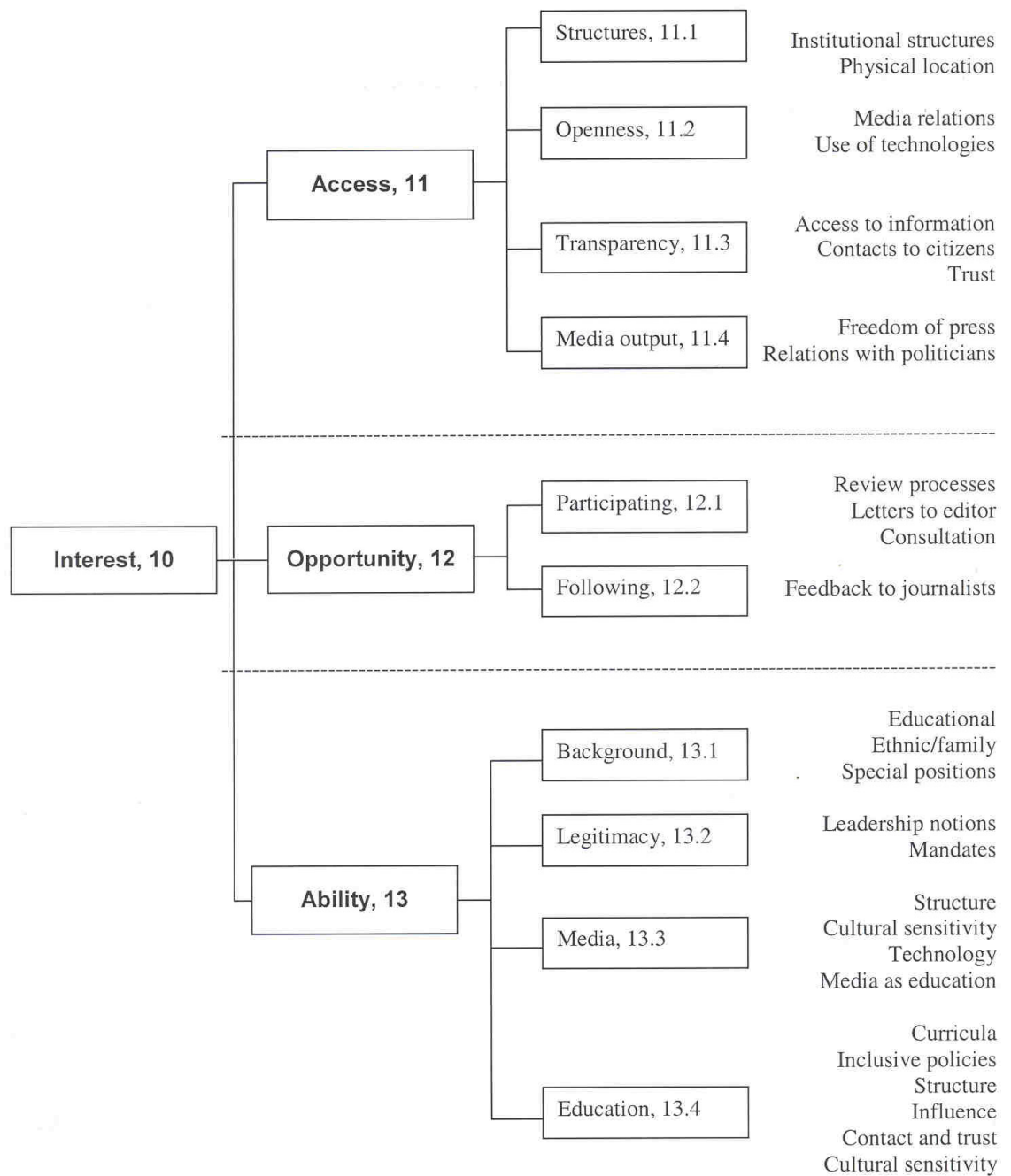
At present, this is hardly a model at all, but merely a presentation of components that will be part of the ensuing models. While this illustration says something about important components when analysing potentially deliberative practices, it does not say anything about the *relationships* between these components. In fact, there exists an abundance of possible relationships between them; relationships that will be brought out in the ensuing analysis of respectively *access*, *opportunity*, and *ability* to partake in

deliberative debates and listen to various viewpoints. This means that chapters 11, 12, and 13, which deal with these aspects in turn, each will start with a revised version of the basic model, adding arrows indicating the dynamic flows between the components, which it is important to get a grasp of to be able to evaluate the extent and quality of any possible deliberation taking place.

A short example of what I mean by this is for example in the case of *ability* to debate, where it is important to analyse the relationship between the collectivity and the individual to be able to assess the extent to which the individual speaking on behalf of the collectivity is fairly representing the interests of the latter and how any authority has been conferred on this representative. In other words, several dynamic relationships may be thought into this basic model, and some relationships are important when analysing ability aspects of deliberative processes, while other relationships have greater influence on for example issues of access.

As accounted for in chapter 9, data has been coded in accordance with the notion of ‘open coding’. The application of data in answering the research questions yielded by table 7.1 is affected by the process of open coding, in the sense that any data that might be relevant in answering a specific question has been taken into consideration and categories have been continually developed. The open-ended approach to data application also means that some research questions will be answered using multiple coding categories, whereas others will be answered using only one or two categories. The diagram below gives a brief overview of the entire structure of Part III and how data has been applied. The numbers in the diagram refer to chapter numbers within Part III. The first two vertical rows on the left pertain to the analytic questions developed in table 7.1, where *interest* is a precondition for *access*, *opportunity*, and *ability*. The next row pertains to the empirical evidence one might look at to answer these questions, also as suggested in table 7.1. The last row in the diagram indicates the series of coding categories applied in answering each question in turn. Every coding category will be introduced and explained as the analysis progresses. As a reminder about where the analysis is heading, the relevant section of this diagram will be reproduced in the introductions to respectively chapters 11, 12, and 13.

Coding categories



Chapter 10: Interest

The implied premiss for any deliberation to take place is that the various parties to a debate are indeed interested in venturing into dialogue. If dialogue is perceived desirable, it must be because the problems or interests of the affected parties are thought to be best solved or achieved in partnership. In other words, a prerequisite for parties to enter into dialogue with each other will be joint interest in solving problems of co-existence.

While history, especially in Australia, tells a story of near-extinction of the Indigenous population, the 91%³⁶ vote in favour of granting citizenship to all Aborigines in 1968 speaks its clear language that this is no longer the wish of the majority of the white population. Radical views will always exist, but neither in the case of Australia nor New Zealand are there any credible signs of either secession or the more drastic version of creating an exclusive society, namely genocide. The Indigenous as well as the settler populations in both countries seem overall resolved that peaceful co-existence is the way ahead.

That government agencies as well as Indigenous representatives are indeed interested in removing any obstacles to harmonious co-existence is also readily discernible at micro-level in the data. Obviously, parties may disagree about what is fair and how far to stretch accommodation for diverging beliefs and viewpoints, but certainly some efforts are made to create and maintain dialogue between the parties³⁷ on both sides. As the data collection process was based on an agenda of speaking with those people actually involved in dialogue about such resolutions of interest, the mere fact that I was able to collect such data attests to interest in participation. A few concrete examples of how this interest was expressed in either country and on the part of either party follow.

The most striking example of inviting to mutual dialogue between the Government and Indigenous groups during the data collection period in Western

³⁶ '[...] the overwhelming 'yes' vote on the referendum's Aboriginal question could be taken as an empirical measure of the very *existence* of a public with opinions and desires with regard to the condition and status of Aboriginality' (Mickler 1998: 125).

³⁷ For present purposes, I define the parties here as, on the one hand, governmental agencies and government overall, and, on the other hand, Indigenous groups.

Australia, would have to be the invitation I received along with several hundred public servants to participate in a workshop occasioned by the launch of a guidebook called *Consulting Citizens: Engaging with Aboriginal Western Australians*³⁸. This guidebook is part of a series of guides to public servants in Western Australia called ‘Consulting Citizens’ and is developed on initiative from the Premier and Cabinet Citizens and Civics Unit. In the words of the first of these guides from April 2002 ‘This Guide has been produced as the first step in establishing best practice guidelines for government agencies undertaking consultation’³⁹.

In this first guide, Premier Dr. Geoff Gallop makes the following statement in the foreword:

One of the enduring challenges faced by any government is encouraging citizens to participate in public affairs – to become active citizens. [...] Consultation promotes active citizenship by encouraging individuals to provide real input into public life and decision-making. The benefits of genuine consultation, involving listening and actively responding to concerns and issues raised, cannot be overstated. It means decision-makers are better placed to make informed judgements by tapping into fresh ideas and new sources of information. For individual citizens this provides an opportunity to express their views and influence the outcomes of decisions that affect them. Decisions that have been reached through a consultative process carry greater legitimacy and credibility in the community. Engaging the community in decision-making builds trust within communities and in our democratic systems of government. It can lead to new partnerships between citizens and policy makers through a shared sense of ownership of the issues that impact on us as a community.

Despite lacking the actual word ‘deliberation’, this statement seems almost straight out of a textbook on deliberative practices⁴⁰. In fact, the use of words such as ‘individual’, ‘community’, ‘express[ing]’, and ‘listening’ correspond exactly with the basic model for analysing deliberative practices, and ideas about ‘opportunity’, ‘legitimacy’, and ‘credibility’ figure prominently in the analysis. Of course, this *is* political flagging, and some respondents from Western Australia expressed the feeling that the WA Government is hypocritical in all its talk about consultation and partnership with Aboriginal people. Nevertheless, having a government publication speak about ‘encouraging’ participation and ‘real input into [...] decision-making’, as well as stressing the need to both listen and respond, bodes well for deliberative engagement and corresponds remarkably with the table of theoretical variables developed in chapter 7.

³⁸ The Government of Western Australia, March 2004.

³⁹ The Government of Western Australia, April 2002, quoting from the blurb.

⁴⁰ The concept of ‘deliberative democracy’ is in fact mentioned on p.5 of this guide.

While words on paper may differ from reality, the sheer amount of work and effort put into publishing this series of guides attests to at least some level of interest in the issue on the part of the Government. At the time of my visit, the series consisted of a total of three guides, the first one being the 30 page *Consulting Citizens: A Resource Guide* from April 2002, another 46 pages from June 2003 called *Consulting Citizens: Planning for Success*⁴¹, and finally the 32 pages from March 2004 dealing specifically with Aboriginal citizens *Consulting Citizens: Engaging with Aboriginal Western Australians*. If the Government did not have serious intentions of following up on this initiative, it is doubtful it would have spent so much energy on it. Upwards of 300 public servants organised under IPAA (Institute of Public Administration Australia) partook in the half day seminar and workshop arranged on March 31st 2004 to mark the launch of the final guide; and while one Aboriginal speaker commented on the irony of so few Aboriginals being present at the workshop, the fact that so many public servants took half a day off with the acceptance of their departmental heads attests to a significant interest in the topic. People I spoke to during the day ranged from employees at the Department of Justice to the Department for Planning and Infrastructure, as well as people from private consultancy agencies working with local governments to resolve disputes between Aboriginal and local interests in municipalities. While there was certainly some confusion as to how exactly go about consulting with Aboriginal people, it is fair to say that the interest, and indeed need, to do so was well established among people working for the Government of Western Australia.

The next question obviously is whether Aboriginals themselves are equally interested in engaging in debate with the Government. Here several respondents referred to ‘The Statement of Commitment’ drawn up between ATSIC and the Government of Western Australia to ensure Aboriginal involvement at all levels of governmental action. Many respondents saw this as a significant document in securing access to expressing viewpoints for Aboriginal interest groups⁴². The full title of this document is ‘Statement of Commitment to a New and Just Relationship between the Government of Western Australia and Aboriginal Western Australians’. The document was signed on October 10th 2001 by State Premier Dr. Geoff Gallop, Alan Carpenter, then Minister for Indigenous Affairs, as well as two ATSIC representatives. While much have changed

⁴¹ The Government of Western Australia, June 2003.

⁴² This document is included as appendix e.

on the political scene since then, not least the abolishment of ATSIC, the ‘Statement of Commitment’ is still a significant document in terms of establishing whether the WA Government and Aboriginals of the state are interested in interacting with each other. Quoting the document itself, ‘This agreement commits the parties to work together to build a new and just relationship between the Aboriginal people of Western Australia and the Government of Western Australia’ (p.3). The document for example details how the structure for a continuing dialogue should be.

While ‘The Statement of Commitment’ shows unequivocal interest on the part of ATSIC’s WA branch to be involved in decision-making, it is doubtful that it can stand alone as proof of Aboriginal interest in participating in dialogue. First of all, it is made in conjunction with the Government and it remains unclear on whose initiative it was drawn up. Secondly, ATSIC arguably did not enjoy full support from the Aboriginal community⁴³, and indeed it was abolished by John Howard in a decision by the federal government during my stay. The significance of this move will be discussed further below, when analysing access and opportunity for Aboriginal interests to be heard.

Because of these contingencies, it is hardly adequate to look at ATSIC as the sole mouthpiece for Aboriginal interest. While it remains an important factor – also in its new guise as OIPC or ‘The Office for Indigenous Policy Coordination’⁴⁴ – other channels of voicing interest also exist. A good example is SWALSC or the South West Aboriginal Land and Sea Council. This NGO is responsible for making claims on behalf of the Nyoongar community, which is a tribal people living in and around the Perth area. While both expressing more abstract political goals of securing a voice and influence for the Nyoongar people specifically, this organisation is also concerned with more pragmatic issues of securing monetary and other compensation for land claims lodged against the Western Australian Government. While such pragmatic concerns may not be compelling reasons to enter into dialogue in Habermasian terms, they certainly create a very real impetus for these groups to enter into relationships with

⁴³ According to one estimate, 29.5% of eligible Aboriginal voters in WA turned up for the 2000 ATSIC election. Source: Sanders et al., accessed on May 11th 2005, available online at www.atsic.gov.au/About_ATSIC/Elections/Elections_2002/docs/2000_DP198.pdf

⁴⁴ Details about the structure of OIPC can be found in the document ‘New Arrangements in Indigenous Affairs’ and is available online at www.oipc.gov.au/About_OIPC/new_arrangements.pdf Accessed on May 11th 2005.

governmental agencies; and it would be empirically wrong to dismiss these as proofs of interest on the part of Aboriginal groups to maintain dialogue with governmental partners.

In the case of Western Australia, however, there are also signs that some Aboriginal groups purposefully shut themselves out of any deliberating practices with governmental institutions. Some remote communities have secured tribal ownership for their historical area of residence, and in these cases Australian citizens unrelated to tribal affairs have to seek permission to enter the communities. These permissions are administered by the Department of Indigenous Affairs in conjunction with tribal elders in the communities. Thus some tribes are effectively shutting themselves out of the dialogue and maintain a rather high degree of self-governance, though still being subjected to various government initiatives for improving their life-conditions⁴⁵.

Some areas of Aboriginal life in the state seem to fall outside of regular dialogue with government agencies, and some areas have indeed actively attempted to withdraw themselves from this influence. Here particularly the Aboriginal Independent Community Schools spring to mind. These form a (partly) autonomous series of schools set up by individual Aboriginal communities in protest against what has in several ways been perceived as an inadequate public schooling system. How this affects educational outcomes and to what extent the State Government still exerts influence over these schools will be a topic when debating abilities for expressing and listening to dissenting opinions. The point for now is that these schools can be viewed as a symptom of less than unequivocal interest on the part of Aboriginal groups in Western Australia to enter into dialogic relationships with the State Government.

In New Zealand, the most striking example to an outsider of encouraging dialogue with the Maori population, and indeed rectify historic wrongs done to them, takes the shape of two governmental institutions, one being The Waitangi Tribunal and the other The Office of Treaty Settlements. These two institutions have their roots in the historic agreement between a number of Maori chiefs and Queen Victoria of Britain, signed in 1841 as The Treaty of Waitangi, or in Maori Te Tiriti o Waitangi. The sheer existence of the Office of Treaty Settlements can be regarded as an expression of

⁴⁵ I am here talking about very basic provisions such as securing water supply, sewage, access to a doctor or nurse etc. – facilities which are by no means a given in remote Aboriginal communities, especially in the northern part of WA.

interest on the part of the New Zealand Government in engaging with the Maori population of the country.

The Office of Treaty Settlements has been set up by the New Zealand Government specifically to negotiate Treaty settlements with Maori groups. The Minister in Charge of Treaty of Waitangi Negotiations, Hon Margaret Wilson, writes in the foreword to the OTS publication *Healing the past, building a future*⁴⁶ that

The relationships between Maori and the Crown are complex, many-faceted and ongoing. They will not come to an end when the historical claims settlement process is completed. When the legislation to set up the Waitangi Tribunal was introduced by the third Labour Government in 1975, the Minister of Maori Affairs, Hon Matiu Rata, described the Treaty as an ‘instrument of mutuality’. Mutuality, in the legal sense, is a word that means ‘a condition of things under which two parties are mutually bound to perform certain reciprocal duties’. It is an accurate summation of the modern approach to the Treaty. It stresses the status and duties of Maori as citizens and the duty of the Crown to actively protect Maori interests (OTS 2002: 3).

This foreword is framed in much more legal terms than the foreword to the *Consulting Citizens Guide* quoted earlier, which is only natural as the Office of Treaty Settlements does indeed sort under the New Zealand Ministry of Justice. Despite the legal terminology and the fact that the institution owes its existence to a particular (party)political decision, the emphasis on mutuality and Maori as citizens – with the rights and obligations this entails for either party – points towards a decided interest in maintaining a dialogue between the groups on the part of the Government. Thus it is also pointed out in this introduction that the relationships between the Crown and Maori are ‘ongoing’ and that ‘They will not come to an end when the historical claims settlement process is completed’. This is a sign that the Government is also interested in dialogue with Maori as an end in itself, and not just as a means to solve the presently pressing question of land settlement processes. While *Healing the past, building a future* is a document detailing legal proceedings, it is also very much an invitation for mutual exchange of viewpoints. Based on a Court decision in 1987, the relationship between the Crown and Maori as prescribed in the Treaty has been characterised as, among other things, building on a ‘full spirit of cooperation’ defined in the following way: ‘The Treaty requires that each party act reasonably and in good faith towards the other. This would require the Crown to make informed decisions about matters of

⁴⁶ *Healing the past, building a future. A guide to Treaty of Waitangi Claims and Negotiations with the Crown*, published by the Office of Treaty Settlements, The Government of New Zealand, 2002. Also available at www.ots.govt.nz Accessed on May 11th 2005. References will be to (OTS 2002).

significance to Maori. In many cases where there are Treaty implications the responsibility to make informed decisions will require consultation' (OTS 2002: 20).

While Court orders (especially from the Court of Appeal!) on the Crown to 'consult' with Maori on 'decisions about matters of significance' to them are not exactly a categorical imperative in the Kantian sense and hardly up to scratch from a Habermasian viewpoint either, it could be argued that pragmatically speaking, the end result is the same: as with Habermas' prescription for a procedural ethics, this Court decision prescribes as procedure for including Maori in dialogue on specific issues of interest to them.

The next question is whether Maori groups are equally interested in exchanging points of view. Here the answer must be unequivocally in the affirmative; the number of claims lodged before the Waitangi Tribunal and Office of Treaty Settlements being a case in point (according to BR, who worked for the Tribunal, over 1000 claims are currently waiting to be heard by the Tribunal⁴⁷). As with Aboriginal interaction with the WA Government, there is no doubt that part of the attraction is the possibility for achieving concrete improvements in life conditions for many of these groups. This is the pragmatic reality of much Government/Indigenous interaction. Nevertheless, it is about more than merely receiving assets and monetary compensation from Government by tribes. This was stressed both by interviewed tribal representatives, as well as the CEO for the Office of Treaty Settlements. And, indeed, the OTS document details three different aspects to a settlement redress⁴⁸:

- Historical Account, Crown Acknowledgement of Breach and Apology
- Financial and Commercial Redress
- Cultural Redress

The issue of cultural redress is further explicated on p.18 in the same document, where the Maori language is taken up as a phenomenon that should have been protected under the promises of the Treaty of Waitangi. Language is linked to 'spiritual concerns' and 'questions of identity and self-determination' – certainly compelling reasons (if the

⁴⁷ Fleras and Spoonley in fact suggest that the Tribunal risks becoming a victim of its own success (Fleras and Spoonley 1999: 22).

⁴⁸ OTS 2002: Part 3: 'Settlement Redress', 81-144. These three parts to a settlement have been in place since 1997, (*ibid*: 25).

interpretation of the significance is right) for a particular group to enter into dialogue to protect its interests.

Maori have also brought claims to the Tribunal relating to more general cultural concerns. These include claims that the Crown has breached its obligations to protect the Maori language as a taonga [treasure] covered by Article Two of the Treaty. As with the loss of land, these cultural and spiritual concerns go beyond economic issues to questions of identity and self-determination (OTS 2002: 18).

In conclusion, the respective governments of Western Australia and New Zealand do indeed show interest in maintaining a dialogue with their Aboriginal and Maori populations. Furthermore, Aboriginal and Maori groups overall are also interested in maintaining dialogue, while possibly less for the sake of dialogue itself, at least for the sake of having their interests heard and possibly attended to. As pointed out, exceptions exist. But as my distinct research question as formulated in chapter 7 was

To what extent can the theory of deliberative democracy be used as a template to evaluate ongoing processes of interaction between Indigenous and mainstream groups in Australia and New Zealand?

- the exceptions are of less importance in the analysis than the actual instances of engagement. Focus is on analysing ‘ongoing processes of interaction’, and in these cases interest is well established as the implied premiss for engagement.

Chapter 11: Access

As accounted for in the analytic model developed in chapter 7, there are two parts to accessibility in connection with debates: access to *express* and access to *listen to* viewpoints. These two aspects emphasise the dialogic character of the interaction, and therefore they will be analysed jointly in this section. But while they analytically complement one another, it would be wrong to assume that they empirical co-occur. Table 7.1 states that the empirical evidence for access to expressing one's viewpoints could be found in structural and spatial aspects such as 'Institutional structures, degree of openness, physical location and distance etc'. This suggests a heavy focus on political institutions as the receptors of opinions and arenas for debate and decision-making. In contrast to this, the suggestion in the same table was that access to listen to different viewpoints might primarily be sought in the 'Variety in form and content of media output available for public consumption, transparency in political decision-making processes, legitimising efforts etc'. This suggests a focus on media and political processes as senders or transmitters of opinions, i.e. as mediating arenas.

The present chapter will analyse the dichotomy of access to listening to and expressing opinions which can be schematised in the following way:

Theoretical variables	Analytic questions
Access to express one's point of view.	How does one access the 'system' or debate?
Access to listen to other viewpoints and possibly be influenced by them.	How is the wider public kept aware of debates?

Since the purpose of the chapter is to analyse whether and how the theoretical variables of access to expressing one's point of view and listening to those of others are played out empirically, the basic model presented in the introduction to Part III can now be refined to catch the empirical evidence for processes related to access. The focal points for the analysis of access have been indicated by the arrows in the revised model below.

ACCESS MODEL



The four arrows in the model correspond to the suggested empirical evidence in the following way:

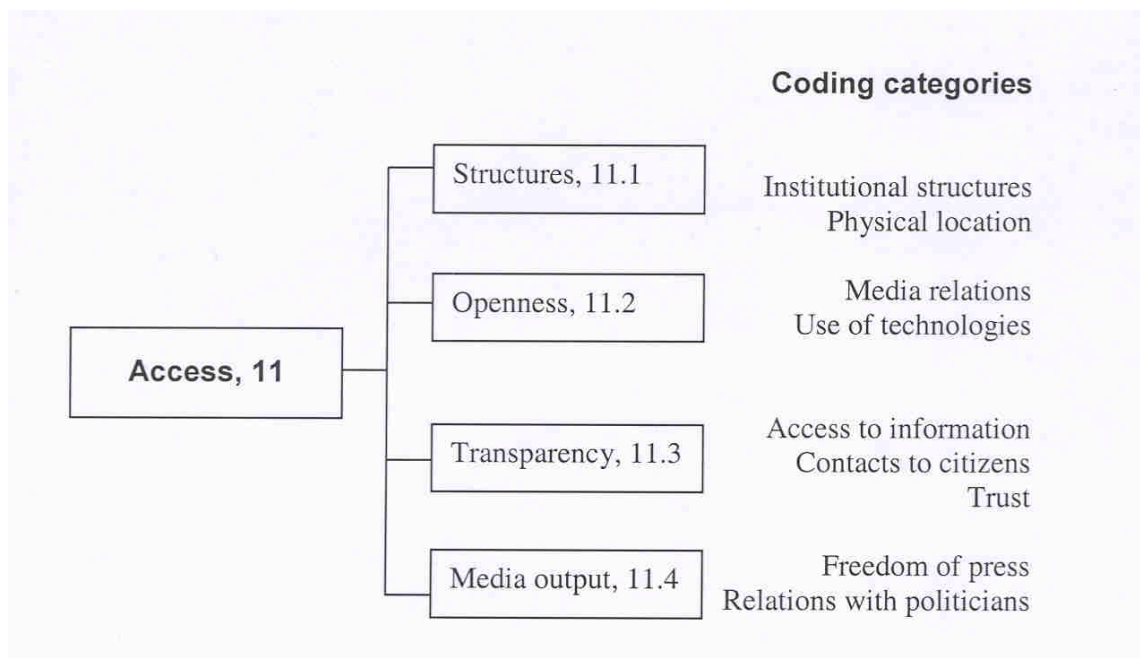
11.1 Institutional structures (how can individuals access the decision-making arenas?)

11.2 Systemic openness (to what extent do the decision-making arenas communicate with the media?)

11.3 Transparency and legitimising efforts (to what extent do the decision-making arenas communicate directly with the public?)

11.4 Variety in form and content of media output (what output does the media transmit to individuals and groups?)

A series of coding categories will be employed to answer the empirical questions⁴⁹. Each subchapter within chapter 11 will introduce and explain the logic behind the application of data from the coding categories employed. To give a preliminary overview of the data applied, the relevant section of the diagram from the introduction to Part III is reproduced below.



⁴⁹ For an explanation about how coding categories have been developed, see chapter 9.

11.1. Institutional structures

Table 7.1 states that the empirical evidence for access to debates might be investigated by looking at the structures of (political) institutions⁵⁰. This is illustrated by the arrow from the individual to the decision making arenas in the access model above, indicating individual access to these arenas. Therefore, the analysis of access to expressing points of view starts by looking at some of those structures and the impact they might have on accessibility. Two coding categories are employed in this analysis, namely data about institutional structures as such, as well as the rather special local subcategory of ‘physical location and distance’, which emerged as an important structure related theme within the Western Australian setting. These structures are to be visualised as entry points to the arenas for debate and decision-making. As with the rest of the analysis, this investigation will primarily be based on interview statements about experiences with accessibility. Such qualitative material is important, because it is plausible that the *experience or feeling* that the institutions are indeed accessible have greater impact on the amount of input to these decision-making arenas than any ‘objective’ measure of openness. Concentrating on interview statements on this issue, a limited number of more ‘objective’ measures (such as eg. institutional charts or diagrams) will supplement these statements.

Part of the inspiration for the empirical research was Benhabib’s question of whether deliberative democracy is institutionally feasible; and therefore a major focal point in interviews was institutional structures and in particular access to institutions, both via face to face interaction, diverse forms of mediated interaction, and the various ways in which these institutions received input from the surrounding society.

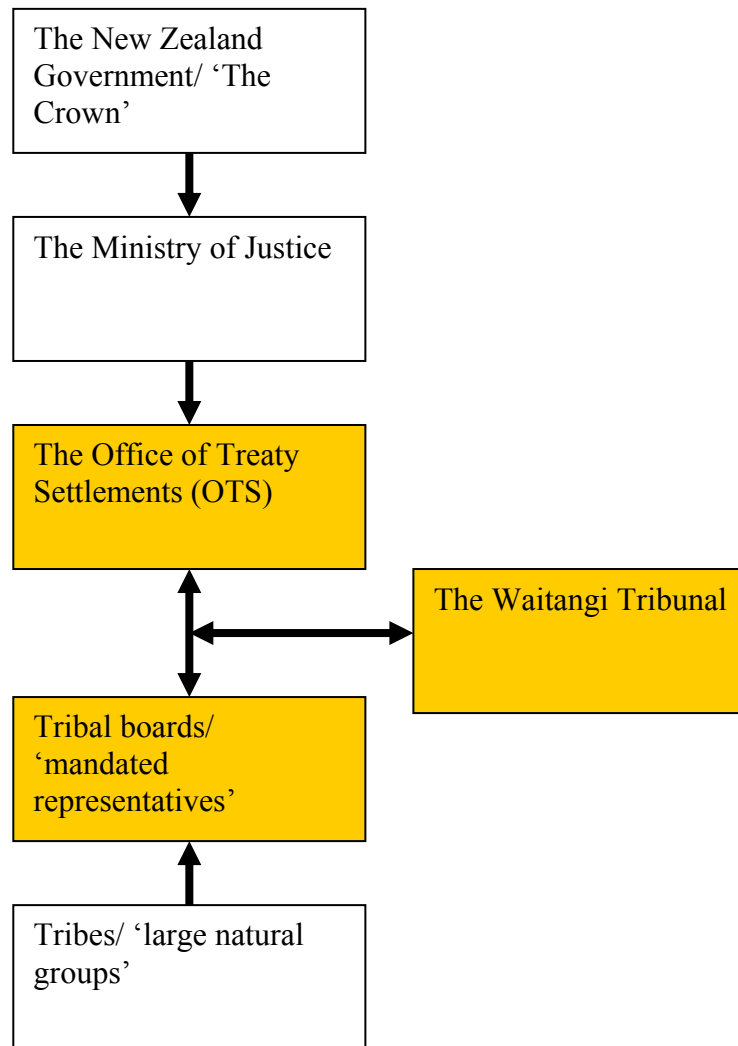
One way in which the issue of institutional design cropped up in interviews, was through a focus on the land reclaim processes that are currently going on in New Zealand, among others through the already mentioned institutions of The Waitangi Tribunal and the Office of Treaty Settlements (see chapter 10). While the judicial aspects of the Treaty with its promise of some degree of protection for Maori culture

⁵⁰ Providing access to express viewpoints is obviously also a core function of the media. However, media have been excluded from the institutional structures considered in the present section. This is done both because media will be given special separate treatment in subchapter 13.3 below, but also because of the argument on p.75/76 that a core objective for deliberative engagement is to be able to influence *political* decision-making. Hence, the structures of *political* institutions are regarded as having greater impact on possible deliberative results than media structures would have. Data from the media sphere will, however, supplement other evidence wherever deemed relevant.

and land are extremely complicated, there is no doubt that a significant proportion of Maori people in New Zealand believe that their Treaty rights have been breached. The New Zealand Government has therefore started a process whereby these claims are heard and legal action is being taken.

The legal aspects of these claims processes were far too intricate for me to go into, but I was nevertheless interested in speaking with some of the people involved in the interactions to hear about how they perceived the dynamics of the negotiations and legal hearings. Thus I interviewed both a government representative, namely the Chief Executive Officer for the Office of Treaty Settlements, a spokesperson for a Maori tribe currently going through the claims process, and a historian working for The Waitangi Tribunal in trying to establish historical links between tribes and land, tracing both written documents and oral history.

One thing these people all had in common, was a great emphasis on the usefulness of establishing institutions to represent the different interests between the parties, and not least to establish trust both between these institutions and the people they represented. The settlement processes have given impetus to the rise of new governmental as well as tribal structures. These structures can be schematised in the following way, with the new structures marked in yellow:



Consistent with language use at OTS, the New Zealand Government will be referred to as 'the Crown'. This is a commonly used term for the New Zealand Executive Council, consisting of Cabinet and the Governor-General.

The structural relations in focus for the moment are those existing between OTS, the tribal boards and the Waitangi Tribunal. Starting with the role of the Waitangi Tribunal, this is a separate institution funded by the national government, but set up to assist tribes as well as OTS or the Crown in establishing historical links between tribes and land. Claimant groups need to register their claim with the Tribunal before either entering into a Tribunal inquiry or proceeding directly to negotiations with the Crown. The latter further requires that groups can demonstrate a mandate for negotiation and that they have actively ceased pursuing their claim before the Tribunal. The Tribunal itself is not party to the negotiations, but may on the request of a claimant group produce a report investigating historical evidence for claims and uncovering any

‘significant overlapping claims from other groups’ (OTS 2002: 38). Such a report can establish whether claims are well-founded or not.

In effect, the Tribunal works as a kind of documentation centre, and employs such people as historians, anthropologists, and other specialists conducive to solving these tasks. Tribes can negotiate directly with OTS in settling their claims, and do not need to go through the Waitangi Tribunal other than registering their claim with them. They do, however, often do so to strengthen their evidence of claim to a particular area. The CEO for OTS remarked that often this was quite unnecessary, as the Crown in any case sometimes already has recognised a breach of its Treaty obligations in certain parts of the islands, and therefore going through the Tribunal will only prolong a process that will result in a Crown apology and redress at all events. In the words of the OTS publication: ‘The Crown accepts that confiscating Maori land after the warfare of the 1860s in Waikato, Taranaki, and the Bay of Plenty was an injustice, and was in breach of the Treaty of Waitangi and its principles. Similar acknowledgements are likely to be appropriate in other districts where there have been confiscations (raupatu)’ (p.15). The CEO for OTS expressed regret that sometimes the Waitangi Tribunal hearings will unnecessarily stall a process that will lead to redress anyway, although he acknowledged the important symbolic role the Tribunal still has, even in such cases. Therefore, the diagram above shows that the Waitangi Tribunal is not a direct link in the chain between OTS and tribal boards. Nevertheless, several tribes apparently perceived interaction with Tribunal investigators as a positive experience. This might be due to the mitigating role of the Tribunal. One respondent, BR (a historian working for the Tribunal) commented on this role of mitigation between European legal traditions and tribal cultural traditions.

BR: We are a bicultural organisation in both respects, that is, we have bicultural membership and bicultural practices, and we are where law and history meet. There is a lot of European legal process that we *have* to go through, and lawyers are a very important part of everything that we do. We *are* a judicial body, that is the nature of the Tribunal, and that comes from the European side of things. And the Maori side is sort of blended in with all of that.

In terms of accessing ‘the system’, an institution like the Waitangi Tribunal can be regarded as a midwife. As AH stressed, it is not mandatory for tribes to go through this further bureaucratic institution. The fact that so many tribes choose to do so attests to the perceived importance of utilising this channel – probably both as a legitimising

factor in strengthening tribal cases before OTS, but also to ensure a feeling of transparency and legitimacy downwards from tribal boards to the tribe more generally. Issues of transparency will recur later in this chapter, but it is fair to conclude already at this stage that evident channels of access are conducive for participation in debates.

OTS was established in 1995 as a separate unit within the Ministry of Justice. Its job, among other things, is to ‘negotiate settlements of historical claims directly with claimant groups, under the guidance and direction of Cabinet’ and ‘review and provide advice to the Minister in Charge of Treaty of Waitangi Negotiations about the mandates of claimant groups and their proposed post-settlement governance entities’ (OTS 2002: 23). Studying the homepage for OTS (www.ots.govt.nz), as well as the *Healing the past, building a future* publication, it is evident that the office is keenly aware of spelling out its own structure and channels of access. On the homepage (as well as in the guide book), the different steps in the claims process are explained, and very detailed information about previous settlements can be found⁵¹. One very important requirement by OTS in relation to hearing claims from tribes, is the demand to set up tribal boards or other regulatory bodies authorised to speak on behalf of the entire tribe⁵² and negotiate settlement processes, as well as eventually receiving and administering the assets or compensation. These do not have to be the same legal entities⁵³, but may be so. There are several key settlement policies (which are not under negotiation), among those that

- A secure mandate on the part of the claimant negotiators is required before negotiations can start. This assures both the Crown and the claimant group that their mandated representatives have been properly authorised.
- A suitable governance entity is required before settlement assets can be transferred. The Crown does not dictate how settlement assets are to be used, but it requires assurance that claimant groups have established an entity that is acceptable to the whole claimant group, and is representative, transparent and accountable (OTS 2002: 32).

Though OTS justifies this requirement as a mechanism to avoid further cultural and legal injustices, it is also a requirement that some respondents found somewhat

⁵¹ See www.ots.govt.nz Accessed on May 11th 2005.

⁵² In the words of OTS itself ‘The Crown *strongly* prefers to negotiate with large natural groupings rather than individual whanau [extended family group] or hapu [sub-tribe or related whanau]’ (OTS 2002: 32, my emphasis). This focus on ‘large natural groupings’ is maintained in an attempt to avoid too many, as well as too many overlapping (in terms of land area) claims.

⁵³ ‘A legal entity means a formal legal structure that exists separately from the individuals belonging to it’ (OTS 2002: 52).

paradoxical. While acknowledging the need for a transparent and legitimate process, setting up a board - something which is essentially derived from European legal traditions - to administer compensation given for breaches of historical, traditional, and cultural rights was not necessarily viewed as uniformly positive.

BR: [...] we have found that the groups that have gone with customary structures that are rooted in ancient traditions have often had a fundamental difficulty in distinguishing between ceremonial control and effective organisation. The classic case of this is with the group called Tainui from Waikato. They had a *very* strong tradition of customary leadership taking on key roles [...]. And so their structures were oriented towards a sort of ceremonial control and maintenance of the culture at all costs. They found that that wasn't an appropriate structure for the management of nature resources and they got into trouble soon after their Treaty settlement. [...] And they have had to go to a different sort of European style management structure to deal with the assets that they have acquired as a result of their Treaty settlement.

Here the clash between tradition and modernity is spelled out. I should stress that BR certainly did not express opposition to setting up tribal boards, but being a historian, he was keenly aware that the process also requires a certain amount of tribal flexibility in relation to traditional ways of conferring authority. OTS is also perfectly well aware of this tension, 'The Crown does not wish to interfere in matters of tikanga (custom), but the Crown does need assurance that the mandate is secure before starting negotiations',⁵⁴ (OTS 2002: 45). Flexibility can certainly also be a good thing; and the need to establish legally recognised organisational structures and the possible positive spin-off effects from this was recognised at least by the representative for the Ngati Toa tribe interviewed on these matters.

MP: [...] we are in the fortunate position where we are well organised, we formed ourselves into an incorporated society, a legal entity that has a mandate from our people to advocate for and represent the interest of Ngati Toa at a political level, whether it be national or local government level. And we have proven over the years – the Runanga [forum or council] has been established now for, well since 1989 this body has been established, and it has proven that it has the capability to represent the needs of the people and it is recognised by these various government agencies and local authorities as being *the* representative, administrative, and political advocate of Ngati Toa.

Tribes have had to show some level of flexibility on this matter, but so has the Crown. Fleras and Spoonley comment on how iwi have had to define themselves in Pakeha legal terms, but they also add that 'The recognition of iwi structures as the vehicle for advancement proved something of a departure from the past, when Maori social and

⁵⁴ The Crown – or OTS – does so by reviewing how the mandate was conferred. With the assistance of Te Puni Kokiri (The Ministry of Maori Development) they investigate whether meetings to elect representatives have been sufficiently advertised, whether any groupings within the tribe have expressed dissenting opinions, etc.

cultural patterns were routinely dismissed as irrelevant in achieving positive outcomes' (Fleras and Spoonley 1999: 125). Not wanting to paint an overly rosy picture of the situation in New Zealand, there is no doubt that these experiences of creating representative institutions for Maori have been highly significant both for the tribes themselves, but also for other societal institutions that have now been given an entry point for most tribes around the country. Furthermore, it is significant, as MP pointed out, that this development also has led to greater Maori understanding of how local and national governing institutions work in practice and has facilitated increased exchange of viewpoints and sharing of aspirations.

This issue of getting organised and somehow form groups able to represent Indigenous interests in interaction with governmental structures was also high on the agenda with many Aboriginal people interviewed in WA between March and May 2004. The debate was raging within the media and elsewhere both before and after the Australian Prime Minister John Howard in April 2004 pronounced the 15-year experiment with ATSIC (Aboriginal and Torres Strait Islander Commission) a failure and announced the immediate abolition of this separate representational body. While in theory this was a federal body comprised of local representatives directly elected by Aboriginal people themselves and responsible for providing a number of government services to Aboriginal people, in fact, few Aboriginals exercised their vote; and this fact coupled with a corruption scandal and other problems had led to what John Howard claimed was widespread dissatisfaction with the Commission. Consequently, ATSIC was abolished as of July 1st 2004, and services previously provided by ATSIC/ATSIS have now been delegated to various 'mainstream' programs. That is, an Office for Indigenous Policy Coordination has been created at national level to oversee regional provisions of services via those channels already providing eg. housing and legal services to other Australians⁵⁵.

I conducted a double interview with the acting heads of ATSIC in Western Australia approximately three weeks after the abolition of the organisation was announced and 7 weeks before John Howard's declared final end of it. In this interview they shared a few thoughts concerning institutional legitimacy and some of the possible

⁵⁵ Details of this new structure can be found online at www.oipc.gov.au/About_OIPC/new_arrangements.pdf. Accessed on May 11th 2005.

reasons for ATSIC's failure to establish itself firmly within the Australian governmental system⁵⁶.

CH: Sometimes, depending on how groups have been herded together and things, you've got to come up with an entirely new model [of governance]. But the people have to be involved in terms of determining what it is, [...] so that the authority is recognised. [...] Not *one* of our traditional cultures has voting as the way of determining who has authority. So 14 years ago we kind of thought, 'well, ok, alright we'll vote for people'. This far on, because you are looking at things in a more mature political sense, and there has been all this other work on governance, you kind of say 'well, hang on, it was *never* gonna work!'. Because there would always be a ground swell of people in the Indigenous community who said 'hang on, they don't have authority'. And you are right, they don't! Because that is not how we gave people authority. So there is that stuff – regardless of what environment we are in, our structures have to be able to be adapted to fit not only people's different needs, but also that more maturing political discussion and development.

This statement supports the underlying claim for this entire subchapter, namely that institutional structures play an important role in determining the accessibility for individuals or representatives to be able to express their needs and interests. And as CH's comment suggests, it is probably useful to continually review such structures to determine whether they both fit governmental needs for transparency and clear structures, as well as tribal needs to be able to identify with these structures and consider them useful and legitimate.

While this 'experiment with Indigenous self-government' - as one commentator dubbed it⁵⁷ - failed, other people working to represent the interests of Aboriginal people in the state were using different strategies. This is for example evident in the following excerpt from an interview with a lawyer representing SWALSC, which is an Aboriginal interest organisation for a particular tribe called Nyoongar.

WT: The way that we get authorisation and our instructions was by setting up working parties. Working parties are there to represent the major families within Nyoongar country. [...] So what we did was hold meetings with all of those families and to bring everybody together [...]. And the family then nominates who they want to represent them in these working parties. [...] And so those working parties make the decisions about what we do with future acts, and give us our instructions.

⁵⁶ It should be stressed that both CH and the WA Premier Geoff Gallop greatly emphasised the good relationship between the WA State Government and the local ATSIC branch. This CH did both during the interview and at a previous government seminar where both she and Dr. Geoff Gallop participated on March 31st 2004. Cooperation with ATSIC was also a recurrent theme in several interviews as well as publications both by the WA Government and ATSIC itself.

⁵⁷ Shaw, April 16th 2004, www.theage.com.au/articles/2004/04/15/1081998300704.html Accessed May 3rd 2005.

Evidently, this is a very different way of structurally organising representation, but in contrast to the atmosphere at the ATSIC office during my stay, this woman was much more optimistic about the situation for the particular group of Aboriginal people she represented and rather proud of their achievements in terms of getting organised and being heard.

Since the time of my visit, the Office for Indigenous Policy Coordination has taken on a new advisory role at federal level, replacing the old elected ATSIC federal board, which was previously consulted on policy matters affecting the Aboriginal peoples of Australia. Voting procedures to elect local ATSIC councils were hardly a great success, and GP, co-director of ATSIC's WA branch, called ATSIC 'an incredible orphan child'. He may be very right that the underlying structure of ATSIC, with elections for local boards and a federal coordinating body which ran partly independent of state structures, was not really appropriate for the tasks this organisation was set to solve. In fact, he saw the abolishment of ATSIC as creating a new opportunity to start over and find a structure that would better suit state and federal governmental needs, as well as accommodate Aboriginal wishes for structural access to influence.

GP: ... – what I like in this opportunity it is going to present, is around the cut to say 'well, if the community has certain expectations about what needs to be done, the government now will have to say well, there are certain things that we are going to need, too'. [...] It is just the structures that we need to create *together*, to enable that dialogue to get going, those decisions to be carried forward.

A new structure has indeed been created, and information about it can be found in the document 'New Arrangements in Indigenous Affairs'⁵⁸. I have not had the opportunity to ask GP whether he feels this new structure is the outcome of an appropriate joint creation process, and whether it has contributed to get the dialogue going and the decisions carried forward. However, in opposition to the former electoral process attached to the ATSIC structure, the new Office for Indigenous Policy Coordination consists of politically appointed members, with a Ministerial Taskforce consisting of ministers responsible for areas affecting Aboriginal citizens, as well as a secretaries group with various experts appointed from the different ministries. Thus, direct Aboriginal influence has declined. To make up for this, a 'National Indigenous Council' has been introduced; this council consists of *appointed* members deemed relevant by the

⁵⁸ This document is available online, www.oipc.gov.au/About_OIPC/new_arrangements.pdf Accessed May 11th 2005

federal government in consultations about matters of Aboriginal interest. In one perspective this seems like a clear step *away* from democratic ideals, but it is too soon to judge this new structure. It should also be remembered in this connection that for example the Nyoongar organisation SWALSC clearly rejected electoral processes as being inappropriate in Aboriginal affairs.

Another interesting structural issue potentially impacting on levels of interaction, is the phenomenon of separate Aboriginal institutions vs. integrated Maori sections in institutions. ATSIC was already under heavy political fire at least from the federal government and media when I arrived in WA, and one reason pointed out repeatedly, was that it was responsible for health provisions, economic assistance, and other welfare benefits directly distributed to the Aboriginal population outside the existing general state system. Hence one respondent said that many Australians were left with the feeling that ‘I thought we were all Australians, why are these Australians, just because they are Aboriginal, getting these different things?’, and John Howard talked about ‘mainstreaming’ Aboriginal welfare provisions⁵⁹. This issue of separate vs. integrated service provisions and ‘mainstreaming’ was reflected upon by the head of the WA ATSIC branch,

CH: [...] for a lot of years now for the broader Australian society there has been a general debate raging about the whole prospect of Indigenous specific programs versus ‘well, hang on, aren’t Aboriginal people part of the Australian population?’. The whole push to mainstream which we are seeing more and more now in terms of changes to ATSIC and ATSIS. Threats to the continuance of Indigenous specific organisations like legal services, medical services, things like that.

ATSIS is the Aboriginal and Torres Strait Islander Service, responsible for delivery of welfare provisions and other services to the Aboriginal population. ATSIS is funded directly by the federal government, and is thus a system that runs in parallel with state provisions within these selected service areas. This was undoubtedly part of the contention about the future for ATSIC and ATSIS during the media storm it got itself embroiled in over possible corruption scandals. CH further remarked that ‘you need a specialised service that *understands* that [Aboriginal people are disproportionately in need of services] and can deal with people, respond to their needs, being fully cognisant of that whole context in which people find themselves’.

⁵⁹ See for example the report by McGrath from ABC Online, Thursday April 15th 2004, www.abc.net.au/pm/content/2004/s1088224.htm Accessed on May 11th 2005

CH seemed to be clearly pro special service provisions for Aboriginals – which probably had to do with her position as acting state head of ATSIC. However, it should also be remembered that she at the time of the interview already knew that ATSIC would be abolished in any case. The acting head of the Anti-Racism Committee was interviewed the following week, and she was more cautious about special service provisions for particular groups of people. Possibly this had to do with the fact that her organisation was working for the interests of many diverse groups, but her approach is certainly more citizenship based, in contrast with CH's argument following immediately below, which builds on the notion of a 'special place' for the Indigenous people in the country.

LD: [...] I think we need respect for difference, rather than separateness. Because as a citizen I should get the *best* quality, it doesn't matter whether it is delivered by an Indigenous person or whether it is a migrant person, or it is a mainstream person. I need the best service because I have the *right* to get the best service.

CH: [There is no] specific consideration about Indigenous peoples having a special place in this country, because we *do*. [...] And certainly, from our perspective, we would say that it is actually discriminatory and arguably racist to treat people ostensibly the same when they are not coming from the same starting point.

Whether one believes that Indigenous people have – or *should* have – a special place in society or not, LD's following argument about needing to deal with difference applies. Relating to questions of citizenship, the 'White Australia Policy' existed from around World War I, and was officially abandoned as late as 1973⁶⁰. Arguably this happened partly due to international embarrassment and comparisons with the Apartheid regime in South Africa, but it seems highly unlikely that even if internationally defensible, such an ostensibly racist immigration policy would reoccur in Australia. Immigration policies have certainly become stricter again since 1973, but Australian multiculturalism is a fact that will hardly go away overnight; which is the light in which I read LD's following statement about what 'mainstreaming' should mean.

LD: Yeah, and I think: what are they mainstreaming? This is the issue that I am going to ask. In the sense that if you are mainstreaming multiculturalism, meaning that everybody who goes to a service gets a service that addresses their need, so you are mainstreaming multiculturalism, rather than seeing multiculturalism as an add-on, you see multiculturalism as the mainstream. I don't have a problem with that. But if you by mainstreaming are saying 'ok, we don't deal with difference, we are giving you the same service', *then* I have an issue.

⁶⁰ A full historic account of who did and who did not count as a worthy Australian citizen can be found in Dutton 2002.

While CH thus advocated some form of specialised service provision for Aboriginals, with LD being more cautious, the general approach in New Zealand was rather different. Here Maori issues often were much more integrated in the daily running of most organisations. Leaving aside the question of social fairness, there is little doubt that the fact that Maori families in need would collect their benefits from the same source as everybody else in society does make a difference in terms of regular contact between population groups. On the other hand, ensuring regular encounters between Aboriginals and the Australian population in general might be easier said than done due to demographic factors. Adding to this, large segments of the Aboriginal population still live on reserves and might not be particularly interested in regular encounters. Using an example from the educational sector in New Zealand, the following excerpts from an interview with a handful of representatives from NZEI (New Zealand Education Institute, in effect a teachers' union) centres around their organisational structure and the Maori place within this⁶¹.

SA: [...] we have a structure for Maori, and these are the Aronui Tomua, which is the local organisations [...]. Maori have a *selected* group, isn't it? So that's a difference. Because Maori make decisions themselves about whom they want, rather than that notion that we have, that you do it through a ballot box. [...] Maori have their own procedures in getting representatives. And that's reflected all the way through to the decision-making body [...].

These considerations go very well along with what CH reflected on concerning possible explanations for the failure of ATSIC to establish itself as a legitimate body among Aboriginal citizens. In contrast, the NZEI representatives showed great awareness of such issues of legitimacy both within the organisation and in the wider Maori community – just witness the following exchange between two people attending the meeting, the former a Maori woman and the latter a Pakeha [white] one.

TH: [...] the two ways in which people are selected or elected are quite different within NZEI. And for miro Maori we use the basis of tinu rangatiratanga, and we try to utilise that [...] you have got 112 branches and 28 Aronui Tomua, each of those Aronui Tomua have their own tinu rangatiratanga, their own ability to sort through their own issues. [...] So the rohe will come, so the group will come to the national hui and put out who their representative will be. And it is not for another rohe, for example, another group, to challenge the selection of that person.

SA: And that reflects Maori structures outside, doesn't it? I mean, outside of NZEI and how they operate within their marae⁶² and things like that. I think what is reflected here in NZEI is reflected in our society.

⁶¹ See their organisational diagram in appendix f.

⁶² Tinu rangatiratanga briefly speaking means self-government, a rohe is a group, and a hui is a commonly used term for a meeting in New Zealand English, a marae is a Maori meeting ground.

However, while there was evidently a great deal of awareness of Maori cultural practices and the need for them also to be represented within the organisational structure, there was also a great deal of critical self-reflection on the part of those people attending this group interview. One Pakeha man attending the meeting made several comments on this account, one of them being the following: SD: 'The second comment that I would make is that where this looks equitable – this is my *personal* comment rather than anyone else's. There is an equity of structure, but I am not sure there is an equity necessarily of power within that structure'. Everybody also seemed to agree that while NZEI generally was able to get access to The Ministry of Education and have their issues heard, those issues brought forward were rarely those raised within the Maori branch of the organisation.

Despite any possible differences in political impact for Maori vs. mainstream strands within NZEI, the sheer fact that accommodating different traditions within the organisational structure was a focal point for the organisation in itself says something important about differences between the Australian and New Zealand approach to such issues. Further in connection with educational issues, a poignant example would be my visit at the WA Department of Education, where the Director of the Aboriginal Education Directorate was interviewed. This is a separate branch within the Department of Education - both structurally as well as in terms of the physical location inside the building. This directorate is specifically responsible for monitoring the achievements of Aboriginal students and come up with policy initiatives to better the educational outcomes for this group of pupils. In the words of the Director:

RS: [...] Not only is it the curriculum and the pedagogical delivery that is important, but for us it is retention and participation of Aboriginal kids in the system, the participation of Aboriginal parents in decision-making, cross agency development, and how we work in a joint-up government sense with other departments that provide services to Aboriginal people.

Special initiatives were also in place within the New Zealand Ministry of Education – here I interviewed the national coordinator for the Pouwhakataki group⁶³, whose office was located among the rest of his colleagues. The Pouwhakataki group is comprised of 19 officers working locally in schools (most of them with a teaching background), where they advise parents and pupils about educational options and mediate with the

⁶³ The group describes itself in the following way in a brochure given to me by the coordinator: 'We're employed by the Ministry of Education to work with whanau, hapu, and iwi [family, clan and tribe/people] to help Maori get the most out of education'.

system in case of conflict – eg. when pupils are expelled for bad behaviour. This is done to build confidence in the public education system among parents and pupils, as well as among the wider Maori community.

MP: [...] So effectively when there are situations where the Ministry wants to engage with iwi, then they will use these liaison people [...]. They can sort of set things up [...] and they will work with schools, trust boards, boards of trustees, and engage in a way where they are able to broker information, support them in some way, bringing both community groups alongside to the Ministry.

These may be small symbolic differences, but nevertheless it is played out in the realities within schoolyards, where a large majority of Maori students attend public state schools, whereas many Aboriginal people – especially in more remote areas – have set up their own private schools. Some of these schools are organised within the Aboriginal Independent Community Schools⁶⁴, and while they obviously have to conform to some general state guidelines concerning curricula etc., they are largely independent from the state structure and in fact obtain most of their funding from federal funds (as well as parent contributions).

An assessment of the impact of these structural differences for the institutional feasibility of deliberative democracy can find inspiration in Skocpol et al's article on the links between the US federal system and the organisational structure of civic associations in that country. She demonstrates how there is a high level of correlation between political and associational structures in the US. '[O]rganization-builders who face complex challenges in conditions of uncertainty are inclined to copy well-understood, already legitimate models in their environment' (Skocpol 2000: 533). Transferring this proposition to other national contexts could shed some interesting light on the relative successes of organisations like for example ATSIC and SWALSC in Western Australia, and Ngati Toa and The Office of Treaty Settlements in New Zealand. I reject the path-dependency suggested by Skocpol's statement, because a great deal of structural innovation is evident in these examples. However, it is also clear that while 'copying' may not exactly be what is going on in all instances of for example tribal or government department organisation, there is little doubt that 'well-understood,

⁶⁴ See www.aics.wa.edu.au Accessed on February 3rd 2005

[but not necessarily *already*] legitimate models' are a prerequisite for organisational success⁶⁵.

A locally emerging theme within data from Western Australia is the coding category of 'physical location and distance', which is closely linked to questions of organisational structure. Western Australia is a huge state – in fact the size of all of Western Europe. But while Western Europe houses some 300 million people, only approximate 1.6 million reside in WA, and 1.1 million of them live in and around the Perth area. This is a *spectacular* centralisation in the metropolitan area, probably unlike anywhere else on the globe. While respondents hardly agreed on whether, in the age of the internet and other modern gadgets, it really mattered (or should matter); regarding the phenomenon in terms of structural impact on political and non-political organisations, there is no doubt that it played a role.

In the following, an Aboriginal employee from the Department of Community Development reflects on unequal access to government services due to what some interviewees dubbed 'the tyranny of distance'. While she is here speaking directly about access to *services*, her point could be extended to cover access to expressing viewpoints as well. I do not mean to imply that it is the same thing, but if one lives 2-3000 kms from the political decision-making centre and is struggling just to get access to running water and a doctor, the likelihood of making inputs to the political system is diminishing – especially if, as IS remarks, there are also language barriers on top of this.

IS: There are *huge* differences [between the rural and the metropolitan area]. And greatly reduced access to services. And even the *knowledge* of those services. [...] And that goes for *all* people.

H: Yeah, both Aboriginal and non-Aboriginal people.

IS: But more so for Aboriginal people.

H: Sure. That is part of this picture that is beginning to appear in terms of communication: that it is so much harder with the rural areas. And even *if* the services are in place, part of the concern is, will people *know* about these services.

IS: Yes. And then the other issue, for *my* community, is not just the rural, when you look at the remote, it is harder again. I mean, with remote communities, there is also the issue around language barriers.

⁶⁵ Skocpol's idea also points towards a further interesting possibility within data, namely to look at what role respectively state and federal levels play in Western Australia and how these levels interact. If Skocpol is right that national structures thus affect organisational structures, a possible clue to any differences in success with Indigenous/mainstream interaction might lie at macro level in the differences between the political systems in Australia and New Zealand. This is a possibility further explored towards the end of the thesis when evaluating the data in its entirety and making the overall comparison between the two settings (see chapter 14).

WT, working for SWALSC, also reflected on the issue of keeping strong links with communities outside the metropolitan area. Although she is specifically working for the Nyoongar people, residing in and around the Perth area, she also made reference to a lot of travelling activities. She does it both for her own sake, and for the sake of the communities, who need to know that SWALSC is actively interested in their issues and wishes to provide them with a channel of access to the decision-making arenas.

WT: It is really important to not just be in an office in Perth. It is really important that people know you, that you *can* go out and visit people, that you *can* go out in the country. It is important for me to keep that knowledge of what I am actually working towards. But it is also really important for the community to see that you are actively interested in them as people and their issues.

These visits to the community also serve another function, because close contact is a necessity in terms of the courts, WT: ‘We can prepare as much advise as we like, but we have to show that it is authorised by the community. And so there are times when we do a travelling road show! And all we do is go bush’. ‘Going bush’, however, is not necessarily that easy for government representatives. SWALSC works directly for the Aboriginal community, and therefore may be received in another way than government representatives flying out to a remote community on a study trip to hear viewpoints on a particular policy proposal. Perhaps it is significant that the following statement is made by a white government employee. Nevertheless, she does work as an advisor to the Minister of Indigenous Affairs John Kobelke, and therefore is presumably not entirely a novice in arranging such trips as she describes – trips that are nevertheless not sufficient in overcoming scepticism. AE: ‘[...] And that’s part of the scepticism with Aboriginal communities: that you have that ‘fly in and fly out’ – ‘here’s the government department people coming in and out again’.’

Another interviewee, however, remarked that this was perhaps more a problem of perception than a real problem. As she explained, there are many more points of contact between rural and remote communities besides the infrequent visits by John Kobelke or other ministers to particular communities. JC: ‘If you have a school, you have a health worker, they all actually live in the community. So they are always government people as well, people forget that they are actually *government*, but they think that senior people who come in there and have a look around and go out again are the only government’. This statement indicates that it is the mundane everyday points of

contact between government and Aboriginal people that are most conducive to fostering a healthy dialogue between the parties. While a visit by John Kobelke might signify a more direct possibility of access to the central circles of the decision-making arena, the more steady but low-key avenues of access are probably of at least the same degree of importance.

This subchapter has concentrated on interview statements and other qualitative material, 'because it seems theoretically plausible that the *experience or feeling* that the institutions are indeed accessible have greater impact on the amount of input to these decision-making arenas than any 'objective' measure of openness' (p.136 above). This notion was supported during a visit to Carol Martin's electoral office in Broome. She is the only Aboriginal MP in Western Australia, and the first ever female Aboriginal to be elected to an Australian state parliament. Among other things, this visit shed some interesting light on issues of physical location and distance in relation to accessing decision-making arenas.

The most important fact to note about the office is that it is situated in the constituency. Rather than having her main office in Perth, where Parliament convenes, Carol Martin has hers in Broome, some 2400 kms north of the metropolitan centre. This part of the state not only lies in a different climate zone, but also shows a diverging demographic profile from the rest of the state. Here, in the Kimberleys, approximately 33% of the population is Aboriginal and several of these people live in partly self-governing remote communities. According to JL, these people were hardly likely to call a MP's office in Perth if they had a particular concern – let alone would they make a personal visit. Therefore, Carol Martin had insisted on having her office in Broome. In stark opposition to governmental buildings in Perth, the office is situated in a quiet residential area in central Broome. It had at one point been used as a medical centre (and therefore the address was known locally), and there was a small garden at the back, which sometimes would be used to hold meetings, especially if elders felt it would be inappropriate to sit inside. As JL put it, this house gave the opportunity for more open access than at St George's Terrace, where most of the state government buildings are situated.



Perth skyline seen from The Swan River, the biggest high rise buildings all have addresses on St. George's Terrace.

Like the Westminster model of democracy, the Australian electoral system is based on single member constituencies each electing one representative for Parliament. Because of the heavy concentration of people in the metropolitan area, this means that MPs for areas such as the Kimberleys, Pilbara and other less densely populated areas of Western Australia cover a geographically much larger area in terms of who they represent. This might create problems for individual voters in accessing their MP, and therefore accessing the political decision-making arenas. However, this is a situation that has been recognised by the WA Government, and some steps have been taken to adjust for this fact.

AE: Sure, those MPs have a much larger area to cover up in the north... That is certainly the case. But there are also ministers that are responsible for particular regions, so there is still representation for those regional areas via a minister.

H: Ok, so you try to tackle that issue of representation / **AE:** balance/ **H:** by balancing it with a different kind of system?

Whether or not this attempt at introducing 'balance' is an adequate way of ensuring access to political decision-making arenas for all parts of the Western Australian population is an open question, but these measures show that creating channels of access is certainly an issue on the agenda of Western Australian law-makers. Whether

these measures have been put in place out of a benign concern that everybody should be heard is another matter. Possibly, such measures spring from another source, namely the fact that not only are there remote areas in Western Australia, but the entire state itself is remote from the Australian decision-making centre of Canberra, and, indeed, remote from the rest of the Western world. It seemed a prevalent self-understanding by people in Perth that they were literally a world apart from everywhere else.

LD: I mean, the tyranny of distance – I can give you one of my big bugbears: in the Eastern states it is just a colonial outpost, Western Australia! It gives me the shits actually! [...]. I mean, the time is there: sending us an email saying 1pm we are having this meeting. And so I send an email saying ‘1pm whose time?! Your time or my time?’. It is just because they think ‘1pm, we all know what it is’. No, we don’t know what it is!

Strong feelings on the subject certainly persisted in Western Australia. In stark contrast to this, it hardly was an issue at all in New Zealand. Here of course, demographic as well as geographic issues are also very much different. While the majority of the population resides on the North Island, the population is much more evenly dispersed, with larger cities on both islands. Auckland in the north of the North Island is by far the biggest. However, it is significantly *not* the capital city – Wellington at the southern tip of the North Island is. If the capital city can convincingly be argued to be the power centre for any democracy, the centre of gravity in New Zealand is therefore situated approximately in the middle of the country. And this is no structural coincidence. In fact, Auckland was originally the capital of the dominion. But as with Australia, political systems of representation were heavily influenced by the Westminster model, and therefore MPs elected for constituencies in the South Island complained that their long and tedious trips by steam boat and train to Parliament in Auckland made close contact with their voters almost impossible, and so it was decided in 1865 to move Parliament to Wellington, after 11 years of sessions in Auckland (Scott 1962).

This in itself does not solve issues of access, but the symbolic significance of moving the capital city to the centre of the country is potentially great. Furthermore, transportation and communication infrastructure in today’s New Zealand has much improved since 1865. A more recent change has been the reform of the electoral system introduced in 1991. From this time onwards, New Zealand has conducted elections according to a mixed member proportional representation system – commonly referred to in the country as the MMP system. While retaining constituencies, and thereby

ensuring continued representation of all regional settings, a proportional distribution of votes on parties have been introduced on top of this. There is no doubt that the MMP system has opened up some new possible channels of influence for the Maori population. The most striking symbol of this has been the increased number of Maori MPs. Partly due to obligations under The Treaty of Waitangi, and probably also partly due to concerns with international reputation, the New Zealand parliamentary system has retained 4 reserved seats for Maori since 1865. Despite the fact that Maori have always been New Zealand citizens with voting rights (Maori women were even given the vote before female Pakeha New Zealanders!), and political parties therefore also always have had the opportunity to have Maori candidates in elections, these rarely appeared high on election lists, and therefore the number of Maori in Parliament historically remained rather steady at 4.

During my visit in May/June 2004, there were 18 MPs⁶⁶ who self-identified as Maori, representing 4 out of 7 parties in Parliament, plus one independent candidate⁶⁷. Besides a drastically growing number of Maori on most political party lists, there were serious efforts going on to create a new Maori Party, and Turiana Turia was, indeed, later that year re-elected in a by-election, this time running for the Maori Party. Obviously not all Maori voters, and certainly not all Maori MPs, would agree with a party program for such a party, and it is highly problematic to assume that Maori are best represented by Maori. But undoubtedly the existence of such a party would create even more opportunities for Maori preferences to be expressed. Furthermore, there is no doubt that a Parliament with 120 members out of which 19 are Maori makes a difference from a Parliament with 91 members out of which 1 is Aboriginal in terms of perceptions of accessibility for the Indigenous group to have its voice heard.

In sum, this discussion has shown that structural issues at macro (Parliamentary and voting systems) as well as micro (for example NGO structures) level impact on access for individuals or groups to express their viewpoints. Sometimes the initiative to create such structures may reside with governmental institutions, as in the case of OTS requiring Maori tribes to have 'mandated representatives', sometimes the structures may be culturally established a priori, in terms of remote Aboriginal communities referring

⁶⁶ A 19th, a Labour MP, Turiana Turia, had just left Parliament in protest over Labour legislation on Maori rights to the seabed and foreshore.

⁶⁷ Homepage for the New Zealand Parliament, www.ps.parliament.govt.nz Accessed on June 1st 2004.

all points of contact through an (often male) elder. The conclusion is that structural issues of accessibility are ignored at the peril of efficient communication and voicing of concerns. Neither the New Zealand Government nor the Government of Western Australia are in fact ignoring these institutional structures, but the discussion has shown that the great attention to the issue in New Zealand has had considerable beneficial effects.

11.2. Systemic openness

Besides looking at institutional structures, including the rather special category of physical location and distance in the case of Western Australia, it was also suggested in table 7.1 that the degree of systemic openness serves as an empirical indicator for access to participation in dialogue or debate. ‘Systemic openness’ is of course a phenomenon that can be hard to catch and measure, as it might be interpreted to entail different things in different settings. In the access model shown in the introduction to chapter 11, the notion of systemic openness has been illustrated in the middle picture by a person from the decision-making arena being interviewed by media. In this way, systemic openness is meant to imply something different from ‘transparency and legitimising efforts’, which is illustrated by the direct link between the collectivity and the decision-making arenas (top right hand picture). This aspect to access will be analysed in subchapter 11.3.

Obviously, ‘openness’ and ‘transparency’ seem almost synonymous in the context of access to decision-making. However, the distinction will be maintained because it enables an analytic distinction between which ‘products’ or decisions the system itself actively wants to share with the collectivity, and which possibilities the collectivity has when seeking information about decisions and procedures. Thus, systemic openness can be investigated by analysing how the system uses media and various technologies to present ideas *indirectly* to the wider public through a mediator or messenger⁶⁸. Transparency and legitimising efforts, on the other hand, denote a more direct relation between the decision-making arenas and the wider public. The distinction therefore enables a presentation of data on how ‘the system’ (in this case governmental

⁶⁸ This need not be a literal mediator, but could also be a metaphoric one in the sense of for example a homepage.

institutions as well as non-governmental ones) transmits an image of itself to the mediating arenas (primarily the media), and through this presumably on to the collectivity⁶⁹.

Systemic openness will be measured by looking at how the system actively cultivates relations with the mediating arenas, because it makes a great deal of sense to view the Western Australian and New Zealand Governments (as well as non-governmental institutions in the two settings) as *actively* interested in ‘selling their message’ or image. According to the deliberative democratic model, access and opportunity to hear various viewpoints are important for debates, and institutional use of media and various forms of technology in making information about their work available serve as empirical indicators of whether access and opportunity actually exist.

The notion that the public should be given access to as much information as possible was high on the agenda of many respondents – especially employees in governmental departments, who were keen to tell about diverse measures to secure institutional openness. That journalists and representatives for interest groups might not agree with the self-evaluation of such institutional openness is a different issue. Interview statements about securing public access to information about institutions and their work tended to cluster around two different notions: Comments on institutional relations with the media; as well as, often quite specific, statements evaluating institutional uses of various technologies in trying to communicate messages. These will therefore be the coding categories employed in the present subchapter – an analytic decision also supported by the above considerations.

Starting with institutional relations with the media, complaints about a lack of media attention to good initiatives being taken by the government towards greater inclusiveness of Indigenous and other group interests were very common among Western Australian respondents employed within the government sector. A prime

⁶⁹ Obviously the media itself is a kind of ‘system’, and also has interest in transmitting a particular type of image of itself. This issue will be discussed in chapter 13.3, as differing media profiles are argued to carry more significance when determining ability to partake in decision-making.

example of this occurred on the front page on The Western Australian⁷⁰ in the morning of Friday March 5th 2004⁷¹.

⁷⁰ The Western Australian, or 'The West' for short, is *the* newspaper of Western Australia. Being the only daily newspaper from the state, it has a de facto monopoly on written news in the state. According to Hartley and McKee 2000: 145, The West has one of the highest penetration rates in the world.

⁷¹ Reproduced by kind permission from West Australian Newspapers Ltd.

World aid to help Perth's poorest

■ By Charlie Wilson-Clark

AN INTERNATIONAL aid organisation known for its work in poverty-stricken Third World countries will spend \$80,000 in suburban Perth to battle poverty and antisocial behaviour.

In an Australian first, World Vision will work with the Armadale Aboriginal community before expanding across the metropolitan area to provide alternative activities and diversions to beat teenage delinquency.

Until now, the Christian organisation has limited its Australian projects to two Northern Territory remote Aboriginal communities, Papunya and Epenarra, where projects improving health and education have been similar to its overseas aid work.

But the organisation has determined that Perth needs help to develop opportunities for Aboriginal teenagers. World Vision made the assessment after being approached by the Armadale Aboriginal community through the Aboriginal and Torres Strait Islander Commission.

Youth Affairs Council executive officer Midge Turnbull said the arrival of World Vision reflected poorly on the entire community and showed young people had been left out of community services.

"I think emotionally and spiritually young people are feeling pretty ripped off and when you add to that

the layer of race and culture for Aboriginal people — they've got a lot to deal with," she said.

World Vision director of development and relief services Sheldon Rankin said he was aware of the negativity surrounding young Aboriginals, which was highlighted by the State Government's controversial Northbridge curfew.

"Our focus is always on hope and remaining positive," he said. "The young people themselves actually talk about the vicious circle they are in and despair at their lack of opportunities."

Through a series of community forums, and a partnership with the Perth ATSIC regional council, World Vision has pledged an initial \$80,000 over the next 18 months, with equal funding from ATSIC.

Council chairman Gordon Cole said the community's willingness to call on World Vision reflected the frustrations of short-term funding of government programs.

"Everybody has heard about Government policing policies such as a curfew on Aboriginal and other children in Northbridge, but this initiative is about addressing the underlying causes of poverty which are perpetuating the problems facing this community today," he said.

Indigenous Affairs Minister John Kobelke welcomed World Vision's involvement and said the project's goals complemented Government policies. The Government also relied on ATSIC for policy advice.

► Alston, page 20

The gist of this article is that World Vision, a private aid company usually working in third world countries, had entered into cooperation with ATSIC in order to try to solve some of the many social problems existing in the Perth district known as Armadale. The reporter Charlie Wilson-Clark (whom I subsequently interviewed) links this story with another Perth district, called Northbridge. Northbridge has had a troublesome history; especially noticeable is the curfew for children below the age of 16 after 8 pm introduced in the summer of 2003/2004. Undoubtedly, many readers of The West would feel that the Government had failed on 'the Aboriginal problem' in Northbridge as well as Armadale, and the article certainly plays on this attitude. As AE comments, the same story could have been given a very different and much more positive spin, had The West wanted to.

H: I was wondering, did you see that story that was on the front page today?

AE: Yes (laughter)

H: So how does this department feel about that kind of story?

AE: Well, I think it is a shame. It sounds like – you know a non-government agency working with a government agency like ATSIC, in order to address some problems. I think it could be seen as a positive step, rather than focus on the fact that World Vision is an *aid* agency. Regardless of that, it is still a *funding* agency, and I think that if they can work together with ATSIC and with the Government as well, it is a good thing, rather than seeing it as a negative thing.

In the article, the spokesperson Gordon Cole, chairman of the Perth ATSIC regional council, blames the Government for not having done enough to solve the underlying problems in Northbridge and Armadale concerning youth delinquency, which is the target of the World Vision program. But as AE points out above, ATSIC is in itself actually a governmental agency (albeit a federal one), and this tends to be forgotten in the debate. JC, working for the Public Policy Unit, who was interviewed one week after this article had made the front page of the newspaper, also commented on this story. As she pointed out, the Government had put much more money into Northbridge than World Vision, but this would never get the same kind of media attention.

JC: There's lots of good work that the media don't even see. What you see in the media is not even 5% of the stuff that actually happens. I mean for example in the recent week, the World Vision stuff... That was actually a reasonably good initiative. But the Government has probably put in a few million last year in that particular area. That is how a lot of things are happening. The media often only gets a snapshot, and it is quite often an incorrect snapshot.

Quite possibly, The West was not being fair to the Government, and indeed to the Perth ATSIC regional council. In fact, the whole story seemed to evolve according to some

own inner logic as soon as the initial article had been printed on the front page on March 5th. In an interview conducted on March 25th with the journalist who wrote the original article, she made the following comment on why she saw the story as significant and why it had reached the front page.

CW: [...] recently there was a story I did on World Vision coming here to provide services for Armadale youth. The significance of that was that World Vision are traditionally an organisation that assists people in the third world. And the only other projects they operate in Australia are in the Northern Territory, in remote communities, which *could* be compared to their work in the third world. And for them to be coming into Perth to do their *first* urban project, I guess says something about how we have handled these issues in Perth. So that is why it was given such a significant position in the paper.

In other words, CW herself interpreted the story as reflecting badly both on Government initiative in Armadale specifically, and the living conditions of Aboriginal people in Perth generally. In this she concurs with the co-convenor of the Social Justice Network Gavin Mooney, whom she interviewed for a follow-up article on March 6th, in which he is reported to have stated that ‘the people of Perth should hang their heads in shame’. In the same story (entitled ‘WA donors fund aid work in Armadale’), she also included another critical statement by Gordon Cole that ‘if we were to sit around and wait for government to respond, we would still be waiting’. This critical tone against the Government is softened somewhat by a parallel article on the same page (page 7 of The West from March 6th 2004) entitled ‘Third world claim rejected’. In this article, a colleague of CW’s Dawn Gibson has interviewed, among others, the local MP Ms MacTiernan about the entry of World Vision in Armadale. Being much more welcoming of the organisation than the previous day’s article would lead one to suspect, Ms MacTiernan says to the paper that ‘it is a recognition that the needs of the indigenous community are not confined to remote Australia’. Also the mayor for Armadale shows a positive attitude towards the aid agency, stating that ‘we should be looking at what the money is being used for rather than where it is coming from’. The same attempt at taking on a positive attitude to the initiative is evident in the following statement by AE, made on the day the first article on World Vision’s engagement in Armadale was brought in the paper.

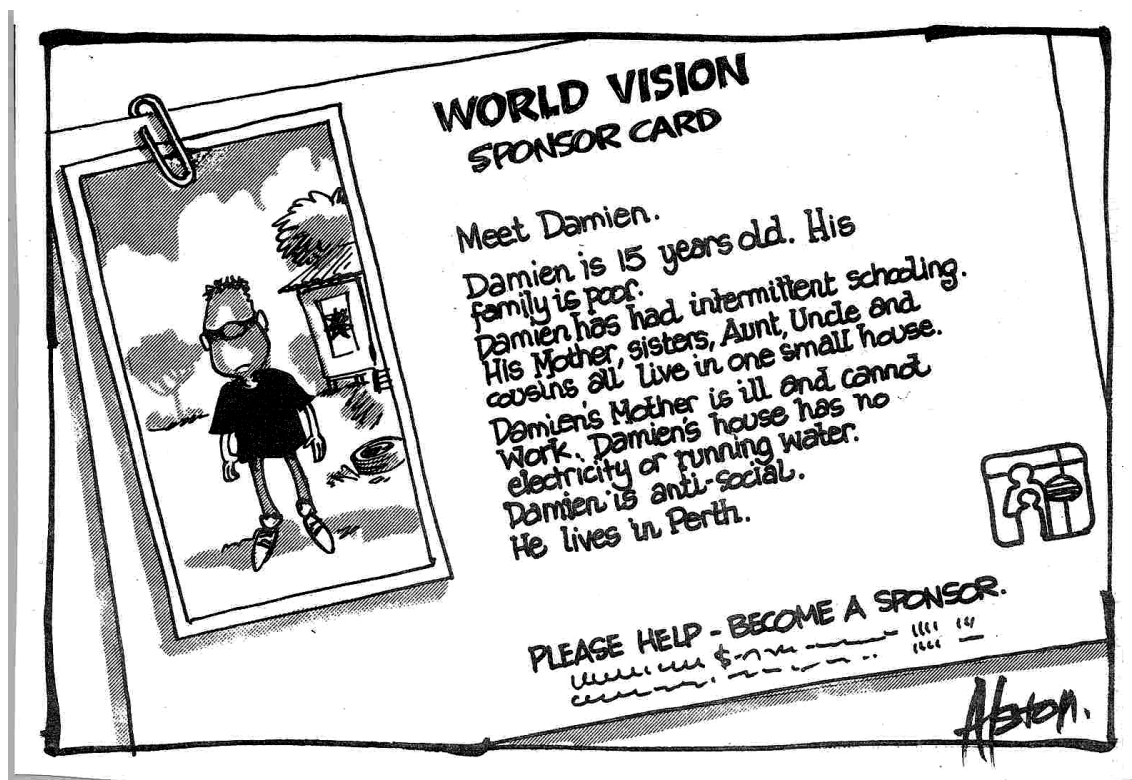
AE: And I think a lot of non-government organisations feel some obligation towards contributing to social issues, within the community they are involved in. And there are obviously some links there between ATSIC and World Vision, and so they have decided to get together on that project. And there has been a real focus on at-risk kids in the metro area. And so they have decided to contribute some

money. As you know Rio Tinto do in the areas that they mine in, or Argyle⁷² [...]. World Vision is obviously an aid agency, so it's a bit different in that way.

But while AE, as well as the mayor for Armadale and the Labour MP for the constituency, tried to smooth over differences between the Government and Aboriginal interests in Armadale, the editors of *The West* made some rather scathing comments on the involvement of the aid agency in the editorial on March 6th 2004. However, rather than supporting CW's original line in the story that the people of Perth and the Government should be ashamed that it was necessary for an aid agency to help, the editorial took on the line that it was all part of a political plot by Aboriginal interests in Perth to make the rest of the population look bad. The first two sentences of the editorial runs as follows: 'At first glance, the idea of World Vision operating in suburban Perth looks like either a bizarre misdirection of charity money or a damning comment on the conditions of some Aboriginals. Closer examination suggests that some Aboriginal politicking and point scoring have been going on'. In other words, the editorial accuses Gordon Cole and associates of being more concerned with winning political fame for themselves rather than helping their community. This accusation is spelled out towards the end of the editorial: 'Aboriginal leaders must accept that they have responsibilities to young people – rather than indulging in rhetoric or stunts'. However, if the newspaper officially disapproves of political 'stunts', it is hardly appropriate that that day's editorial was accompanied by the following cartoon⁷³, playing on the fact that World Vision usually engages in programs sponsoring children in need.

⁷² Rio Tinto and Argyle are both mining companies operating in WA.

⁷³ Reproduced by kind permission from West Australian Newspapers Ltd.



Aboriginal politics in Western Australia is a complicated issue, and neither political reactions to the story about World Vision nor the editorial line on the issue seem consistent. Stories often have deep and tangled roots, as CW's statements confirmed.

CW: ATSIC actually were pretty heavily involved in helping to bring them [World Vision] here, so it is something they are happy to get them involved in. Happy to get funds and resources from wherever they can get it. And I think part of it was sort of showing the Government that they could go to other sources if they weren't prepared to deal with them.

H: Aha. So that was also part of the statement?

CW: I reckon it was. I think politically it was, but they weren't that up front about it. [...] Particularly because they were not happy about the level of consultation on the Northbridge curfew.

All in all, this is an example of how the media and politics may in some instances form a sort of self-sustaining symbiosis feeding on each other's inner logic. Complementing Government complaints about the media's failure to provide positive attention to initiatives involving Aboriginal citizens, there were also complaints voiced about too much media interest in negative stories or 'bad apples'. In the words of CH, acting head of ATSIC's WA branch: [...] 'Like every society and every social issue it tends to be the bad apple syndrome, the vocal minority on both sides of those debates that gets the

media play. And that's unfortunate, because those two perspectives tend to feed each other in a negative spiral'.

Others were working more consciously to actively gain experience on how stories travelled in the media, yet admitting that negative or positive spins on stories are often beyond the influence of individual governmental departments. The following example of keeping up with media presentations of policy issues is particularly innovative in its attempt to make up for some of the problems related to the size of Western Australia.

AE: [...] we do get clippings of all the Indigenous affairs articles throughout the state, so they do get picked up in local newspapers as well [...]

H: You say you get clippings. Does that mean that you've got a system in place for somebody to actually go through the newspapers and check how it spreads? [...] Is it then your impression that it is these positive stories that carry through or..?

AE: Not always, no, not always. It is certainly not always positive at all. But there's a variety of issues that either come from the local area itself, and then we can at least get information on that and through the department. And there are issues that have come from us that they bring up there. It depends on how contentious it is, or what the nature of it is, how it is viewed. It is not always positive.

The freedom of the press undoubtedly contributes to sound democratic debates, despite government departments probably sometimes wishing they could control the content of the media.

Overall, a significant number of negative statements about the media were made. On the other hand, signs of a much more productive relationship between governmental departments and the media were also plentiful. Most interviewees assigned great importance to using the media and various forms of technology as a way of providing channels of access for the wider public to gain insight into what was going on on the political decision-making arenas. – This does not imply open invitations for participation, although some technologies, for example the internet, lend themselves more readily to two-way communication and feedback. The following examples are all more or less instances of one-way communication. Starting with newspapers and radio, these next quotes introduce an interesting distinction between more and less useful and efficient ways of communicating particularly with Aboriginal people.

IS: You've got to get the information out there. They put it in the newspaper, and that is absolutely ridiculous. Because a lot of our people don't even buy a newspaper, they don't read the newspaper. [...//...] In fact, in the job that I am currently doing, I am doing some work with the ethnic radio station, to get messages out about how family and domestic violence is not right, and where people can access services and get further information. [...]. And the other area that I want to move in to is Indigenous radio

[...] the way I *want* to do this, you'll pick up and provide messages and information to a whole series of Indigenous communities state-wide.

Contrasting with this, the radio journalist KB showed a preference for the written word: 'In a general sense - I don't know – newspapers, if you get something into the newspaper, you get better coverage. A story on the radio is just that: it is there and it is gone. In the newspaper it is there and it is written in stone. That's why we felt it was important to start an *Aboriginal* newspaper, so we could start writing some of those things down'. Such examples show a very pragmatic approach to communicating services and policy initiatives to the target group. Generally speaking, many government employees interviewed in Western Australia had had many practical experiences in communicating with Aboriginal groups, and often had strong views on how to succeed with it. Although government employees are unlikely to consider themselves Habermasians and should not be measured by standards they do not profess to, it is still interesting to see how they appeared likely to come up with practical solutions to counter some of the theoretical obstacles Habermas warns about⁷⁴. For example Habermas' fourth premiss for the masterless dialogue that 'Nobody may be prevented through force from exercising the right to participate in dialogues' was arguably attempted met by certain initiatives. Force may be many things, and can be such contingencies implicitly alluded to above: that many Aboriginals are poorly educated and do not read well enough to wish to buy the newspaper⁷⁵.

Another more direct expression of how social contingencies impact on information flows between decision-makers and the Aboriginal population is made in

⁷⁴ Obviously, government employees are not engaged in a fictional dialogue with Habermasian ideals. In this case, it appears more likely that it is in fact Habermas who is in tune with empirical reality. See also chapter 16.

⁷⁵ To my knowledge, Habermas' first formulation of what I have here referred to as the fourth premiss in the masterless dialogue, occurs in (Habermas 1983: 99). Here Habermas refers to Alexy for the view that 'Kein Sprecher darf durch innerhalb oder ausserhalb des Diskurses herrschenden Zwang daran gehindert werden, seine [...] festgelegten Rechte wahrzunehmen' (Alexy 1978). Habermas himself explains this principle in the following way further down on the same page: 'Regel (3.3) fordert Kommunikationsbedingungen, unter denen sowohl das Recht auf chancengleiche Teilnahme am Diskurs ohne eine noch so subtile und verschleierte Repression (und daher *gleichmässig*) wahrgenommen werden können'. This formulation – that all speakers should have equal chances for participating in the discourse 'without any subtle or covert repressions' – supports the wide interpretation of the word 'force' above. The notion that 'Nobody may be prevented through force from participating in dialogues' is therefore interpretable within a framework that also includes socio-economic contingencies such as poor reading skills etc.

the following comment, where WT, working for SWALSC, comments on why this Aboriginal NGO does not rely on internet advertisements of meetings and the like.

WT: I don't think there is a wide accessing of internet facilities, I just don't think people have them [...]. The number of Nyoongar people that own houses is about 700 [out of a population of approx. 20,000]. Can you imagine how many people would actually have access to computers?! It is *really* small. The homeowner population is minute, the computerowning population at home is probably a fraction of that. So we rely a lot on advertisements, word of mouth and we also do mailouts to all of our members.

It is not only economic factors that may make it hard for Aboriginal communities to keep up with decisions being made; once again the vastness of the state impacts on levels of access. Data obtained in Broome⁷⁶ include comments from JL about how The West does not get delivered in Kununarra (the northernmost town of the state) until after 2 pm each day. She also said that there were many real problems of communication affecting the Kimberley region, for example faulty phonelines are a common occurrence. While these were the realities of life in the Kimberleys, the head of the WA Anti-Racism Committee warned against using such contingencies as an excuse for failing to make progress in improving departmental communication with communities.

LD: I think it really is an excuse, because I think – resourcing is *always* an issue, you don't always get the mega-bucks that you want. But *these* days, you don't need the mega-bucks with the technological advances that *have* been made to actually communicate with people. And that's the point that I am making, that more and more it is becoming a bigger and bigger excuse than a genuine reason.

Judging from WT's statements, SWALSC certainly had no 'mega-bucks'⁷⁷. She told about how the organisation tries to make most of its money when advertising meetings and decisions, among other things using the existing network of various Aboriginal institutions - she also used the expression 'the Nyoongar grapevine'.

WT: With the newspapers, what we do is advertise in The West Australian, because it goes to the whole state, and we advertise in the community newspapers that reach the towns we are going to. [...] Aboriginal radio doesn't reach all of WA, and we wouldn't pay for advertisements on commercial radio. Because we just couldn't afford it and it would reach a much wider target than we want to reach... We send out our notices to all the Aboriginal organisations in the south west, whether that be Aboriginal corporations, health services, legal services, ATSIC, any of the Aboriginal corporations.

⁷⁶ 2400 kms north of Perth.

⁷⁷ This impression is supported when reading SWALSC's annual report from 2003, which includes financial statements. Published by SWALSC, 2003.

Comparing the above data from Western Australia with data from interviews conducted in New Zealand, the following statements exemplify more specific relations with the media and thoughts about what role they play in securing systemic openness and mediating messages to the wider public. Both positive and less positive comments were made by respondents in New Zealand concerning cultivating relations with the media, the following being by a tribal representative from the Ngati Toa tribe.

MP: I guess we *are* cultivating relationships with the media. But not in any – it is in a very pragmatic way, a very ad hoc way. I mean, we don't have a strategy or anything like that. We are certainly not actively going out there and pursuing media attention in relation to this issue. But I think generally speaking we *are* developing a reasonable report with the media. [...] But at the moment it is really: we get contacted, we respond, we do the best we can. Sometimes it works to our favour, sometimes it doesn't.

Comparing this with for example WT's many statements and acute awareness of keeping in close contact with the media (she referred to many WA journalists by their first name), media contacts seemed much lower on the agenda of many respondents in New Zealand. One way of regarding this issue, which is supported by the following statement by ME, is that the whole push to have Maori voices accepted in the media is an already accomplished goal (certainly not all interviewees would agree with this).

ME: [...] So in the 1980s you couldn't find much in the way of Maori stories in the newspapers and The Dominion⁷⁸. And I was writing book reviews at the time, so I wrote one in Maori with a translation. So I thought, well, I am gonna do this; I am gonna split it in half. I wrote it in Maori and I got a translation. And I sent it, and they were like 'WHAT?!'. But they published it.

Of course, not all media attention to Maori issues is positive. BR commented on the many letters to the editor in support of Don Brash – the opposition leader of the National Party; arguing at the time of my visit that too much special attention was given to Maori. On the other hand, BR also commented on how media attention to recent Maori protests before the UN delegation working on the Draft Declaration of Indigenous Rights 'embarrasses the New Zealand government delegation in New York, but it doesn't really translate into anything major back here in New Zealand. But it is still worth a try. It is actually costly, but it is still worth a try'.

As was the case with government employees in Western Australia, their New Zealand counterparts seemed to have a rather pragmatic approach to using media to

⁷⁸ The Dominion Post is a Wellington newspaper.

communicate with target groups and the wider public. While AH from OTS might not be entirely pleased with media representations of the settlement process - AH: 'I think there is a lot of misinformation out there. A fundamental flaw in the settlement process is that any Maori individual can lodge a claim, and the number of claims gets viewed – at least by the public and by the commentators – as the measure of progress. It's an imperfect and very poor measure of progress'. He also told about how OTS is actively using the media in these processes to secure that negotiation mandates are well founded:

AH: [...] When a tribe provides us with a deed of mandate, we publicise it all throughout the country, and say 'does anyone want to make submissions?' And if you get a lot of submissions saying 'look, we weren't notified of this hui, we didn't know it was happening', the Crown is justified in saying 'look, there has been a bit of a problem here, you need to do it better'.

In contrast with IS's statements above, it is clear that OTS finds newspaper advertisements of deeds of mandates much more reliable than she would, cf. her statement about Aboriginal people not buying the newspaper. It is assumed that the relevant Maori target group will have access to information from the newspaper. This is a big difference between governmental departments communicating with Aboriginal and Maori stakeholders about policy issues. Obviously it relates very much to socio-economic factors. As many respondents pointed out in WA, Aboriginal people are for example very unlikely to have access to internet facilities. The following statements by ME and MP stand in stark contrast to this.

ME: Because our Government has been going more and more online, there have been more and more opportunities for Maori people to get stuff online and on the whole we are reasonably – those people who have got an interest in democracy and decision-making etc *usually* are able to access the internet. [...] So actually those who are involved in democratic processes generally can access the internet. They might not have it themselves, but most of the tribes are fairly well served with computers and stuff.

MP: Even with the internet and all of that at our fingertips, it is very hard. And *because* all these communication devices *are* at our fingertips that provides people with more ammunition to fire at us when we are *not* communicating properly. So communication becomes a hugely political issue. So we are struggling, but we are getting better.

While MP identifies internet access as something that creates an added demand for efficient communication, she also speaks of it as one of 'the usual methods' in the following quote, musing on the possibilities inherent in the new technologies. However, as she emphasises, ultimate authority springs from decisions made at hui, where people

meet face to face. This is still the preferred mode of communication within Maoridom – this was repeatedly pointed out by a great array of interviewees.

MP: [...] communication is going to be vital, obviously. We will be looking at all the usual methods: the website needs upgrading, we want to develop a more interactive IT program, where people will be able to register online and they will be able to respond to questions that we might hand them in a sort of digi-poll. There will be all of that, there will be your regular newsletters, panui. But ultimately the decisions will be made at hui. Hui with the iwi where people are brought together. But they will have the added opportunity, which they don't have at the moment, of registering a vote via the internet.

So while Maori access to and use of various forms of media appear much more widespread than is the case in Western Australia, there is still an emphasis on keeping the traditions from the marae alive. Overall, the general conclusion is that institutional interest in cultivating relations with the media was great in both countries. However, this seemed a more well-established procedure in New Zealand, where institutional representatives talked less about it and seemingly had less difficulties in communicating out messages. This is probably both because of greater Maori access to such facilities as newspapers and the internet, and also because of a more well-established routine ensuring that the communication is going on. After all, New Zealand governmental departments have been communicating with Maori citizens since the beginning of the nation's life, whereas Aboriginals only became citizens in 1968, and therefore hardly were considered as important to communicate with about political matters prior to this date. Furthermore, the language barrier is likely to make itself felt – New Zealand government employees can learn *one* language to communicate with all Maori, whereas several widely diverging languages are being spoken by Aboriginals in WA.

Concluding more specifically on the data at hand, it is interesting to note that even if communicating with Aboriginals in Western Australia was viewed as a difficult task, awareness of these difficulties also sparked specific conscious *strategies* to overcome difficulties. Examples here would include the survey of local newspaper reporting of Aboriginal issues routinely carried out by staff for the Minister of Aboriginal affairs, or the conscious use of radio to spread information about services from the Department of Community Development. Somewhat contrasting with the state of affairs in New Zealand, Western Australian government departments appeared to have a very reflexive attitude to their communication strategies. This picture also holds true if one compares statements by the SWALSC representative with the direct remark

by MP from Ngati Toa that ‘we don’t have a strategy or anything like that’. While SWALSC and Ngati Toa certainly represent two different ways of organising tribal representation, data is still comparable here to the extent that both interest groups are based on organising particular tribal interest – in both cases not only to further a land reclaim process, but also to take care of tribal interests more generally.

11.3. Transparency and legitimising efforts

This subsection will analyse the empirical phenomena of transparency and legitimising efforts, which in the access model above were illustrated by the direct arrow between the collectivity and the decision-making arenas, signifying the collectivity’s ability to follow proceedings in these arenas. As argued in the beginning of subsection 11.2, transparency and legitimising efforts will be regarded as the more direct relations existing between the decision-making arenas and the collectivity, as opposed to the mediated relationships documented in section 11.2. Therefore, this subsection will deal with the direct and less mediated points of contact between the political institutions and the wider public. Three coding categories will be taken up in this connection, namely ‘access to information’, ‘contacts between decision-makers and the public’, and ‘trust’. These three signify a progressing level of intimacy or mutuality between decision-makers and the public - or what one respondent referred to as ‘doing to’ as opposed to ‘doing with’.

Starting with the most one-sided of these relations, representatives from various governmental as well as non-governmental institutions were keen to speak about mechanisms in place to ensure that the wider public was given *direct* access to information from their institutions. In other words, trying to circumvent what many of them alluded to as the distortions of the media. Several interviewees from WA talked about the need for a direct communication flow between the decision-making arenas and the (Aboriginal) community, but some of the most succinct statements came from JC, who was an Aboriginal woman working for the Premier and Cabinet Public Policy Unit. Working in this relatively new unit with its emphasis on explaining policies to the affected communities, and also being an Aboriginal herself (at least she personally put

great emphasis on this), probably influenced the following rather bold statement about ‘equal capacity’ in negotiations.

JC: [...] That’s the same way with government going to the negotiating table, you’ve got to make sure they have equal capacity, otherwise it is not negotiation. You have got to provide them [citizens] the information, otherwise – and that is the way the government has also moved. Everything we produce is plain, simple – so that anybody can pick it up and read it and understand it. Otherwise it is pointless.

In line with her emphasis on access to plain and simple information as a prerequisite for ‘equal capacity’, she also talked about simplifying processes to avoid ‘communication loss’ resulting in ‘no-one knowing where to go’. Acknowledging the structural role of Indigenous elders or people in leadership, she also talked about how adequate information is a source of empowerment for these people.

JC: [...] We try to simplify it, so there is no communication loss. Often the reason is communication loss when no one knows where you need to go. [...] People in leadership – I’m talking about Indigenous people – particularly people in leadership roles within their regions, we are trying to give them enough information to say, ‘this is what the State Government is doing’. So they are empowered with any information, and they can work with their community to try to understand.

She further emphasised that this is work government departments often have to do themselves, as it is not enough simply to rely on going through mediators as for example ATSIC, who have their own political agenda to take care of.

JC: [...] Like with the Gordon Inquiry, a lot of people are saying ‘nothing has happened’. There is so much that has happened, but it is up to us also as the Government to go out to the community and say ‘this is what we’ve done in your community’ [counting on fingers]. That is the disadvantage of using just one group like ATSIC at the negotiating table. They haven’t necessarily fed that through to the communities, all the positive stuff that has actually happened.

As with the above quotes from interviews made in Western Australia, data from New Zealand has been searched for interview statements relating to public access to information. The number of statements relating to this category is a lot less than from WA. This is both due to the lesser number of interviews conducted in New Zealand, but probably also due to the fact that the whole issue of communicating out messages was much less controversial in New Zealand, and appeared more a routine matter. This I base not only on the limited emphasis on the issue, but also on other indicators, for example the following statement, which is made by a recently retired government employee, who has worked for various departments and ministries, including serving as Maori advisor to two different Prime Minister.

ME: [...] When I was out in the Departments – that is Women’s Affairs and Te Puni Kokiri/Maori Development – a component of the job was going out into communities, meeting them, listening to them, and then bringing their views back, communicating with communities through newsletters etc, providing responses – draft responses – for ministerial sign-out back to communities who had written in to ministers, running seminars, and you know: *contact* really.

Here she is significantly talking about work she was doing in the 1970s and 80s - emphasis on communication with Maori communities is therefore nothing new. I visited Te Puni Kokiri (which is the name the Ministry of Maori Development presents itself under) and talked to a representative there. Although she did not agree to let me record our conversation, she very readily told about communicative practices within the department, for example saying that ‘there is ready public access’ and ‘whoever wants to access the information can’. Being the Department of Maori Development, it regularly produces policy reviews on policies introduced by other departments that affect Maori communities. These published reports are readily available to anyone interested. Of course, providing the information does not necessarily mean that it is also consumed, and when asked about whether they get feedback on these kinds of reports, she replied ‘some, but not much’.

Also from New Zealand, AH, the Chief Executive Officer for OTS, stated in relation to tribal access to information that ‘they are *keen* to have access to information’. And the OTS publication *Healing the past, building a future* is also very explicit on the need to communicate in order to show sufficient transparency in settlement processes. On p.30 a list of ‘Crown negotiation principles’ is stated, one of these being ‘transparency’, which is explained thus: ‘First, it is important that claimant groups have sufficient information to enable them to understand the basis on which claims are settled. Secondly, there is a need to promote greater public understanding of the Treaty and the settlement process’. This principle is very significant in terms of evaluating to what extent the settlement process can be said to follow a deliberative procedure. Despite the fact that ‘deliberation’ is not a concept occurring in this guidebook⁷⁹, there is no doubt that the emphasis on communicating sufficiently with claimant groups and

⁷⁹ A search on the words ‘deliberation’ and ‘deliberative’ yields no results when applied to the online pdf file. Arguably, the repeatedly used concept of ‘settlement’ points towards a focus on closure to debates which has little resemblance with a Habermasian notion of continual questioning of results and premisses. On the other hand, AH from OTS would probably characterise this as an ‘academic concern’ compared with OTS’s pragmatic approach to these processes (see also p.244).

also ensuring that arguments are *understandable* (i.e. *justified*) to the greater public seems to be a good empirical approximation of Habermas' theoretical requirements.

Something Habermas does not take into account in his theoretical approach, however, is how specific cultural practices might impose certain demands on what counts as adequate and justified arguments. In the case of communicating with Maori tribes, OTS acknowledges the symbolic importance of having its head communicating directly with the heads of tribes. The following provision can be seen as a culture specific attempt to accommodate various notions of what 'sufficient information' might amount to: 'usually (and certainly when requested to do so), the Minister presents an outline of the Agreement in Principle [...] to claimant group members, including kuia [female elders] and kaumatua [male elders], several weeks before it is signed' (OTS 2002: 36). In other words, OTS acknowledges tribal authority and communicative structures, although not solely relying on those, as is evident from its process of reviewing negotiation mandates.

Remaining with (intra-)tribal access to information, the following statement by a representative from the Ngati Toa tribe reflects on how a loss of tradition has had a negative impact on tribal communicative skills. While she may or may not overstate former tribal communicative skills, this statement can certainly be seen as a sign that tribal representatives are indeed reflecting on how to accommodate tribal tradition with modern needs to communicate.

MP: [...] communication is fundamental to the successful working of iwi relationships. And that continues to be an area that needs to be developed. I don't think we are nearly as good at communicating as we were maybe 100-200 years ago. And that's a result of the fact that – I mean, before communication was fairly uncomplicated. It was by word of mouth and we didn't have a written language as such [...]. And whakakotahi te iwi [bringing people together], those leaders had the responsibility of communicating with the people and of listening to their feed back and making a decision that was based on the views of everybody. So that was leadership.

Based on the evidence presented here, as well as the discussion above of 'systemic openness', the conclusion is that institutional interest in cultivating relations with the media and in communicating more directly with stakeholders about policy issues were great in both countries. It appeared, however, a more well-established procedure in New Zealand, where institutional representatives talked less about it, and the Indigenous population had greater access to such facilities as newspapers and the internet.

The next coding category discussed here will be ‘contacts between decision-makers and the public’, signifying greater mutuality compared to the previous category of ‘access to information’. This was in fact a rather self-evident category already from the very early interviews in WA, where government employees often referred to the extensive travelling activity undertaken by departmental representatives – this partly had to do with the very special terms for interaction set by the geographic and demographic contingencies of Western Australia. Interview statements within this category range from rather abstract musings over the necessity to keep in contact, as well as very concrete examples of successful contacts – and less successful ones!

Starting with general comments about the need to travel to see Aboriginal people and hear their concerns, the following is a statement made by the advisor to the Minister for Aboriginal Affairs. As she emphasises, ministerial representatives will go out to the regions for reactions to particular policy matters, where they will meet with representatives. But the ministry is also often contacted directly by individuals ‘for more specific matters’.

AE: [...] When we go out to the regions for particular reasons, we’ll always meet with local groups. Or chairpersons or corporations etc, and they have the chance to meet with the Minister, and discuss their direct concerns. And certainly, we have a lot of people coming into the office from land councils, and they have very close contact with the community, and they raise a lot of issues with the Minister. [...] I suppose people call in for more direct matters, rather than big policy issues.

AE’s claim that taking the initiative for contact goes both ways between government and Indigenous representatives or individuals is fully backed up by the following comment from JC, working in the Public Policy Unit.

JC: Yeah, the Government will go out to Indigenous people when there is something important to develop, but there is a lot of Indigenous people that don’t sit back either. [...] There are people who are constantly writing to the Premier, meeting the ministers, who create a lot of things happening, too. [...] So there are a number of opportunities for people to have their voice. [...] we have people that can barely write English write letters to the Premier, and they have since the 60s. There are letters going to the Premier about the Stolen Generation, and how they were taken away. [...] When the Premier goes to functions, or when the Ministers go to functions, people can’t wait to question them. These are Aboriginal people. And so the Ministers are always like [facial grimace].

Life may indeed not be easy for Ministers trying to ‘sell’ a particular policy document to people, and cultural barriers may even worsen the situation. The following concrete example of this is from IS, who had worked for several WA Government departments,

and was quite critical of Ministers and ministerial representatives scorning advice on how to interact with various Aboriginal groups.

IS: [...] And sometimes there are cultural practices where some people have to sit behind a screen; you are not meant to be able to see them. [...] When I was in DIA [Department of Indigenous Affairs], the head of the department went for a consultation in the Pilbara region, and these people that were sitting behind the screen were complaining because they couldn't hear what he was talking about. And in his naivety and without knowing the cultural practice, he made inappropriate comments about 'well, if they can't hear, they should come out from behind their screen'. When culturally they are not allowed to.

This would certainly be an obstacle to communication unforeseen by Habermas⁸⁰. While generally speaking, the WA Government *did* appear to be consulting on various policy matters – WT remarked, '[...] this is a big turnaround, to get ministers, officers contacting you and say 'come talk to us'. So it is very encouraging' – it is also clear that consultation may require more preparation than might initially be imagined, if it is necessary to take various cultural practices into account. Of course, it might be argued that if Aboriginals are interested in having their preferences heard, they will have to comply with general Australian standards of partaking in discussions. On the other hand, this can also be argued to impose an unnecessary one-sided burden on Aboriginals to enter into dialogue.

The cultural accommodation will probably have to be two-sided to be efficient in overcoming obstacles; returning to a previous example, Carol Martin's electoral office in Broome exemplifies this. While still being an electoral office, its placement in a residential area was seen as a significant gesture in terms of inviting Aboriginal people to visit the office; and as Carol Martin's secretary started by telling me, 'we get walk-ins'. Asked how frequently, she replied approximately 10 per day, which she said was quite unusual for an electoral office. Normally a lot of people would not know where to find their electoral office – which was one of the reasons why Carol Martin had been so intent on getting a less formal office situated at the heart of her electorate. The secretary further remarked about the walk-ins that it is 'good that people feel that they can do that'. At the time of my visit, the federal Labour opposition leader Mark Latham had recently commented on TV that he wanted to abolish ATSIC. Because Carol Martin is

⁸⁰ Neither is Habermas' theory developed to be applicable to such a specific cultural setting. However, comparing the theoretical requirement that 'Nobody may be prevented through force from participating in dialogue' with empirical contingencies also yields interesting results – in this case the conclusion that cultural practices also may exert a particular kind of force. See also footnote 75 above.

elected for the WA Labour Party, on this occasion they had had people coming into the office saying ‘I want to speak to Mark Latham and tell him what I think’.

Some respondents from New Zealand also commented on the need to accommodate different cultural traditions in the same interaction processes. Especially BR had several remarks on this account, the most noticeable probably being the following:

BR: [...] Often when I am conducting historical research in Archives New Zealand it is done in a fairly conventional way, looking at Crown officials and their actions towards those groups in the 19th century. But when I present that research, I present it in the field, and that’s a *deliberate* policy of the Tribunal: that is to hear historical evidence *in* the field, *on* marae, usually, where the claimants feel most comfortable. It is a sort of ultimate act of inclusiveness.

Because the goal of his work is to investigate tribal relations with particular areas of land and produce reports to be used in negotiations between tribes and OTS, he is greatly dependent on gaining the trust of both sides in his work. There is no doubt that contacts between policy makers or institutions and (Indigenous) communities was perceived as important among New Zealand Government officials, for example evidenced in efforts to meet Maori on their terms and accommodate some of their cultural traditions in the contact processes. One often repeated idea, was the notion that Maori prefer meeting face to face (called *kanohi ki te kanohi*) rather than engage in written exchange of viewpoints. In the words of the representative from Te Puni Kokiri, ‘Maori always like a face and a voice to talk to’.

Very likely this springs from the great Maori tradition for oratory. Maori exchanges of viewpoints and ideas have historically been centred on the marae or meeting ground⁸¹. The concept of the marae is a well-established term in New Zealand English, continually appearing in the media, and – along with the word *hui* [meeting] – it is a concept very often used by policy makers and institutional representatives. For example, the interviewee from Te Puni Kokiri said that ‘the most effective way to engage an iwi is to have a hui’, and ‘if you want a grass root opinion you are going to have to go to the marae’. So hui are not only accepted concepts, but also an accepted form of meeting, both from the Maori and the Government side, and she added that ‘it

⁸¹ For a discussion of the current significance of the marae as a forum for debate, see for example Starzecka (ed) 1996, notably chapter 3 by A.T. Hakiwai, ‘Maori Society Today: Welcome to our World’, pp. 50-68.

has been around for many years’. This is confirmed by the following statement by ME; a former government employee, sitting on the tribal board for her father’s tribe.

ME: [...] what we have seen over the last 30 years is probably a proliferation of the Government going out and consulting Maoris, so that we are now at a stage where the tribes – some of them – are *inundated* with requests for consultation by the Government, and they actually can’t cope – *some* of them can’t cope. [...] So for example you will find on a particular day that the Government might be in city asking Maori people to respond to, at a meeting, to policy issues on three or four different topics! A social welfare topic, an economic topic, an education topic, and the resources of the tribes don’t actually stretch that far, so there are some new issues arising that weren’t there 20-25 years ago.

Summing up, examples of positive interaction between decision-makers and Maori are not uncommon in New Zealand, whereas the picture is rather more mixed in WA. Of course, the two settings are not directly comparable, and one may speculate that historical contingencies make themselves felt in these cases. For example, it is arguably easier for a governmental system to learn about the ways of the marae and try to live up to cultural rules of good behaviour in this special setting, than it is for a governmental system to simultaneously be dealing with people who have no qualms about making ministers cringe publicly, but on the other hand may prefer having meetings in the office garden or even insisting on sitting behind screens being unable to see the person speaking.

The third and final coding category employed in answering questions about ‘transparency and legitimising efforts’ is ‘trust’; relating more to legitimacy than the previous categories. Here the proportional distribution of comments from Western Australia and New Zealand is *very* remarkable. Data has been searched several times, and there are a total of 6 comments on trust in WA out of 8 interviews with people working in the governance sector, whereas there are 13 quotes from NZ within the same category, but in only 5 interviews. The category of trust has been included in the analysis because the word ‘trust’ or, conversely, ‘suspicion’ figured in several interviews. In addition, promoting trust between various interest groups and government can be conducive to good governance and establishing legitimacy. Furthermore, trust is a natural extension of the above discussion of instances of direct contact between policy makers and (Indigenous) citizens.

Looking at the few interview statements about trust (or suspicion) from WA, it is striking that in these two first instances it is actually not the respondents themselves who introduce the concept into the conversation; first the advisor to the Minister for

Aboriginal Affairs, and then an Aboriginal employee at the Public Policy Unit. H: 'It must be difficult to establish a sense of trust/ AE: with so many different people that come in and out that don't actually live where you live. Certainly, and that's been historical'.

H: [...] it must also be difficult to create trust with the community if...?

JC: Just spend time. It is like *anybody*, black, white or [inaudible], if you don't know somebody. People think it is rocket science with this stuff with communities. But basically you are strangers, everybody is strangers. They need to trust you. And the history with Aboriginal affairs and government coming into communities, have been really welfare and not trustable.

- While these *are* leading questions, it is striking that both of them answer in the same way: that the main reason for a lack of trust between government and Aboriginal citizens is historic wrong-doings. Some social capital theorists, notably Robert Putnam in his book on Italian democracy (Putnam 1993), claim that once trust in society between government and citizens is lost, it is next to impossible to re-establish it⁸². However, when looking at the settlement processes going on through OTS in New Zealand, they are aware of rectifying historic wrong-doings, also as a means to re-establish trust between Maori citizens and the political system.

As JC points out, it is not rocket science to engage with Aboriginal communities, but more a question of spending time establishing a relationship – like you would with any other group of people. 'Everybody is strangers', but that does not preclude becoming familiar with each others' ways and opinions. IS suggested that one possible means of overcoming these obstacles is to have 'identified positions' reserved within governmental departments for Aboriginal employees. While she certainly acknowledged that it was not entirely unproblematic to introduce this kind of affirmative action, because some employees might be considered less qualified than others because of it, she also expressed the view that the benefits were greater than the drawbacks. IS: '[...] I mean, the reality is, if you didn't have identified positions, particularly in regional centres, you'd never get to work with those people. Because of, you know, there has been the past removal policies in this country, and there is just no trust'. As with JC and AE, she thus attributes the lack of trust between Aboriginal citizens and the government to historical factors, concretely 'the past removal policies',

⁸² For an opposing indication, see for example Rothstein and Stolle, 'Social Capital, Impartiality and the Welfare State: An Institutional Approach' in Hooghe and Stolle (eds) 2003: 191-209.

i.e. the policy that existed right up to the beginning of the 1970s to remove ‘half caste’ children from their Aboriginal mothers.

As with the above examples documenting the desirability of face to face interaction between New Zealand Government representatives and Maori, WT, working for the Nyoongar land council, also put great emphasis on processes of communication as a way to overcome suspicion – in particular on face to face interaction with interested parties. WT: ‘When people come into a meeting who they haven’t had dealings with before, there is suspicion. And they are certainly not as welcome. It just comes down to that initial contact. Once they’ve seen the same person 2-3, whatever, times, they are much more welcome. But there *is* weariness initially’. While she does not use the word ‘trust’ here, it is possible to draw her comments on ‘suspicion’ into the debate about trust and institutional structures.

Moving on to data from New Zealand, subchapter 11.1 above detailed how the New Zealand Government has set up an institutional system with well-established and clearly defined channels of access for Maori groups to have their claims under the Treaty of Waitangi heard. One thing respondents all had in common when reflecting on this system, was a great emphasis on the usefulness of establishing institutions to represent the different interests between the parties, and not least to establish trust both between these various institutions, as well as appearing as a trustworthy system to the affected Maori groups. The CEO from OTS was also concerned with duties towards the wider public:

AH: Too many grievances of the past have resulted from the Crown coming along and dealing with whoever came along first or whoever was compliant [...] We can’t tell groups how to organise their own affairs, but we have been in negotiations for 15 years, we know what works and what doesn’t. So part of it is just sharing best practice, and by and large claimant groups like that. They don’t take everything the Crown says as Gospel, of course not. But they are *keen* to have access to information. The other thing is the reason that I have already outlined: the Crown has a duty to the wider claimant community, and, I would argue, to the wider public, to ensure that the people it is negotiating with have some mandate to do what they are doing.

As with the above quotes from WA, AH here identifies historical grievances as causing problems in the present. However, he has a more constructive approach to how such problems may be solved. Although he does not mention the word trust here, the notion of ‘sharing best practice’ can be seen as an attempt to establish trust between the parties. As he admits, groups ‘don’t take everything the Crown says as Gospel’ – but that does

not preclude them being interested in interaction and accessing information. Furthermore, AH speaks about ‘a duty to the wider claimant community, and [...] to the wider public’ to ensure a fair and open process. This is entirely in line with what is stated in the OTS publication p.30 under the heading of ‘Crown negotiation principles’, namely that ‘The negotiations process is to be conducted in good faith, based on mutual trust and cooperation towards a common goal’. Trust is a *requirement* in the settlement process.

This point of view is also reflected in my following exchange with AH, debating the issue of ‘saying sorry’, which has been high on the Australian agenda because of John Howard’s downright refusal to say sorry to ‘The Stolen Generation’, which he has claimed is a concept that does not make sense. Clearly, AH believes that New Zealand is more on the right track with its set policy of including an apology in the settlement negotiations with any Maori group having its claims settled through OTS.

H: I was looking at the homepage for this Office as well, and I noticed the point about providing an apology. That is part of the negotiation, how to word that as well, or?

AH: Yeah, it is what the Australians haven’t quite come round to.

H: Yeah [...]. Do you think these apologies – do they have a real value?

AH: Oh, of course. I don’t know of other countries in the world where the state makes apologies to their Indigenous people in such a way. You know, I have been to Australia and talked at conferences, and obviously New Zealand and Australia have a lot in common. We have a lot of differences, though, as well. I think one of the things the New Zealand Government learned pretty early on, which I don’t think the Australians have yet, is if you want reconciliation with your Indigenous population today, you need to have some process for resolving what occurred in the past.

Apologies are important for moving on, according to AH, and closely linked to establishing trust. In the claims settlement processes, apologies and trust seemed mutually reinforcing elements of the entire system set in place to deal with Treaty of Waitangi claims. AH thus outlined what he saw as the evolution of the claims settlement process, emphasising that in the most recent phase dating from the end of the 1990s ‘you don’t have a high level of scepticism from claimant groups’. Trust has been established, although it has been a long haul.

BR also saw a significant evolution towards greater Maori trust in the Tribunal, even saying that prior to 1980 the Tribunal was more or less regarded as a joke. BR: ‘[...] It was really a joke until Eddie Durie took over and he infused these cultural elements. And once it became a bicultural organisation, then people could see that it was something quite distinctive and it developed a life of its own’. Eddie Durie was the

judge who took over presidency of the Waitangi Tribunal in 1980. Being the first Maori president of the institution, he introduced new elements such as hearing claims on marae instead of in 'The Orange Ballroom' at the Intercontinental Hotel in Auckland, where the first claims before the Tribunal were heard. In the words of BR, such early practices created suspicion on the part of Maori, who felt that they were still dealing with a colonial institution forcing them to litigate 'in the way that Europeans normally litigate'. The practice introduced by Durie in 1980 of hearing claims on marae was still held in high regard according to BR – although, as the following statement shows, flexibility has to be shown on the part of both parties.

BR: [...] Now we don't *always* hear historical evidence on marae, in fact, yesterday I was hearing it in a court room in Wellington. But the reason we heard it in a court room yesterday in Wellington was that when we went to our last hearing at a place called Ruatahuna, two people died within 24 hours. And what happens then again is that customs take over, and that is that the deceased are brought into the marae and the hearing has to be abandoned. And we have to – we don't *have to*, but we participate in the tangi⁸³ [...]. And that's why, because we had to discontinue that hearing and attend those tangi, we had to come back to Wellington to pick up the rest of the evidence that had not been heard up there that week. So that again is an attempt to include not just the group but their culture as well.

Things like taking time for funerals may seem inconsequential from a European perspective, but WT from SWALSC in Western Australia had also commented on how big a problem a sudden funeral could be for court cases in WA, where the system is not prepared to cease hearings just because the affected Aboriginal family has to attend to cultural practices surrounding the death of a relative. Making room for the cultural practices of the other party and becoming familiar with them was attributed great importance in terms of 'building up relationships' by MP, who here speaks as a tribal representative about experiences of cooperating with white city councillors.

MP: [...] that's why building up relationships is so important. To make people feel comfortable. [...] I mean, for Pakeha to come onto the marae, they need not feel alone, and they need not feel afraid. [...] So we are really starting to break down a lot of those barriers just by bringing people, bringing the councillors, bringing the staff onto the marae as regularly as we can. Showing them around, making them familiar, letting them know that they can drop in whenever they want.

Judging from MP's statements, it is a long process, and she also emphasised that there was some way to go yet. Nevertheless, she did acknowledge that much had already been achieved through the last 10 years of cooperation between Ngati Toa and the Wellington city council, despite the fact that cooperation was initially a requirement

⁸³ A tangi is a Maori funeral with accompanying extensive rituals of mourning.

imposed on the council by central government. She had not forgotten that ‘they begrudged having to do it’.

MP: [...] Because we have to understand these local councils didn’t come out and consult with us to a greater extent than they ever had because they *wanted* to, they did it because they *had* to. So not only was there suspicion from *our* side, but there was also a real reluctance on the side of many of these councils, and they were very – they begrudged having to do it. So that’s not really a solid – suspicion and reluctance, to say the least – is not a good basis for a solid relationship.

Social capital theorists writing about trust would certainly agree with MP that ‘suspicion and reluctance [...] is not a good basis for a solid relationship’⁸⁴. Nevertheless, a Pakeha city councillor from the same city council MP is speaking about was also interviewed, and he was very positive about the effects of including Maori representatives in council work.

CL: We have in this regional council here, which I venture to suggest – or in fact I know – is the most progressive in the country in this respect: we have a separate committee as part of the structure of the organisation in which *all* of the tribal representatives from this region [...] They are all represented in that, they have a say on some of the programs that are pursued, they have rights built in now to be part of the resource consent process, any big project will be vetted by Maori representatives.

Being less pessimistic than Putnam in his book from 1993, Dietlind Stolle also suggests in ‘The Sources of Social Capital’⁸⁵ that institutional engineering might in fact produce heightened levels of trust. In other words, trust can be fostered by political initiatives. This echoes MP’s and CL’s evaluations of their experiences with council work.

In connection with earlier quotes about how historical grievances have an impact on present trust levels between Maori and the New Zealand Government, ME (who here speaks as a retired government employee as well as a board member of her father’s tribe) talked about tribal participation in *hui*, and why some cynicism still persists about these interaction processes. She attributed this to historical issues, for example the land confiscations after the Maori Wars of the 1860s (many of the tribes who had their land confiscated had in fact not partaken in the insurgency, but just happened to live on desirable plots of land from a European perspective). Yet, as she also emphasised, the process of addressing those wrongs has also been going on for quite a while now.

⁸⁴ The most explicit example of this would be Putnam’s analysis of poorly performing Italian regions in Putnam 1993. See also Torpe 2003.

⁸⁵ In Hooghe and Stolle (eds) 2003: 19-42.

H: But what are people's incentives for participating in these meetings? Is there a feeling that it makes a difference?

ME: Well, there is quite a lot of cynicism about some of the processes, and there is a mistrust of Government, it doesn't matter *who* is the Government, there is a general mistrust. And that is because of the historical issues [...]. And so since the 1970s the Government has sort of been trying to address those injustices, those grievances that have been retained within the tribes. And while some tribes have settled their grievances with the Government, had assets returned, or *some* assets, compensation, there is still a general mistrust because the Government will *still* pass legislation where – it is that tricky business, you can't please everybody all of the time.

Summing up, trust was an important issue for respondents in Western Australia, but much more so in New Zealand. While it was not necessarily a theme introduced by respondents from the WA governance sphere themselves, they did not dismiss it as irrelevant; and people interviewed from the education and media spheres in the state spoke a lot about establishing trust – either with Aboriginal parents and pupils or with Aboriginal contacts for stories. Interview statements from both settings point primarily to historical factors such as The Stolen Generation or the Maori land confiscations as reasons for present suspicion between the parties. The major difference between statements about trust lies in the suggested remedies for the lack of it. IS from WA suggested that it was necessary to have more Aboriginal government employees, but she was also aware of the problems such a policy might entail. Respondents from New Zealand were much more confident that despite cooperation between parties being *imposed* by law and being greeted with reluctance and suspicion, the only real remedy for a lack of trust was to engage with each other. Simple things like allowing time for tangis or showing city councillors around the marae were accorded great significance by respondents. In the words of MP, 'And we can also see that the people on both sides, at the end of the day, are actually *people*, we are all human beings, and we all have very similar needs and aspirations. We might just have different ways of getting there'. This might be a banal conclusion to draw, but nevertheless, it is this mundane everyday interaction that seems to be missing in the WA context, and therefore impedes the establishment of an institutional climate of transparency and legitimacy. WT, working on behalf of the Nyoongar tribe, among other things suggested that more Aboriginals on city councils might serve to break down suspicion between the population groups.

WT: [...having Nyoongar people on councils] has twofold benefits: 1. Nyoongar people have a voice and an awareness of what is going on in the proceedings that are being made, but also that other councillors and other townspeople who haven't had any contact with Nyoongar people, other than perhaps seeing them down in the park, now relate one on one. And the majority of white Australia has absolutely no idea

about Aboriginal people. None *whatsoever*. They see stereotypes of stolen cars and drunks in a park, footy players, occasional artists. But there is no mainstream interaction.

However, as with other possible initiatives, such an idea is partly impeded by the fact that there are so relatively few Aboriginals in WA compared with the percentages Maori make up in New Zealand. But identifying the lack of ‘mainstream interaction’ as the root problem goes a long way towards explaining the lack of trust between Aboriginals and WA Government representatives identified by respondents. And without trust, efforts towards establishing transparency and legitimacy are an uphill struggle.

11.4. Variety in form and content of media output

Welcome to West Australian Newspapers' The West Online.

West Australian Newspapers Limited are the publishers of The West Australian and 19 regional newspapers. The West Australian newspaper has been published in WA since 1833. It sells about 210,000 copies Monday-Friday and 385,000 for the weekend edition on Saturdays which has more than a million readers.

The Dominion Post

Every day on average 272,000 people aged 15+ read The Dominion Post. The Dominion Post is the merger of Wellington icon paper The Evening Post and Central New Zealand daily authority newspaper The Dominion. The merger of the two papers became reality on 8 July 2002. Catering to the Wellington region and Central New Zealand, The Dominion Post provides thorough coverage of local and international news, as well as special features that inform, educate and entertain its readers. Employment, motoring, real estate, entertainment and special retail-living sections cater to the needs of readers and provide advertisers with a sound platform to communicate with their target consumer groups.

From www.thewest.com.au and www.fairfaxnz.co.nz/publications/general/info92.html - both homepages accessed on February 7th 2005.

Subchapter 11.2 described how the arenas for decision-making use the media to promote systemic openness. This subchapter will look at the reverse relationship, namely to what extent the media takes the initiative to provide access to information about debates to the wider public. This analytic question is symbolised by the bottom picture in the access model in the introduction to chapter 11. This illustration depicts how people are able to access information via various types of media. In accordance with Adeno Addis' theory that media is an important area of deliberation, interviews with journalists and others working within the media were high on the research agenda from the outset. Five formal interviews were conducted in WA, plus two informal

conversations, as well as a recorded discussion with Steve Mickler, who is not a journalist, but has written extensively on the reporting of Aboriginal news in Western Australia. Complementing these, four formal interviews were made in New Zealand.

Focus will be on two of the many themes respondents touched upon, namely ‘access to information and freedom of the press’ as well as ‘relations between media and government’. In relation to table 7.1, the content of these coding categories help answer the theoretical question about access to listen to various viewpoints. This clearly played a central role for many respondents. CW, reporting on Aboriginal affairs at The West, made the following rather general comment about the role of the media in providing access to information about political decision-making:

CW: Well, I think the media is a very important part of the democratic process. I’d like to think that we contribute to informing the public about Government decisions or Government inadequacies or policies [...]. That we sort of provide a way to get people information and ideas out there, and hopefully then people are able to make up their own minds about how they want to vote or participate in the political...

Speaking from what some cultural theorists might call ‘a marginalised position’ (although it should be stressed that CA is a Pakeha woman living in an Auckland suburb), CA, who worked for a Maori news organisation called Mana News, made a somewhat different and much more specific comment about issues of access to information. In this case she speaks about the fact that the Maori News program had been moved to an earlier timeslot at Radio New Zealand, namely to 6.24 – 6.47am on weekday mornings, during the 6-9am ‘Morning Report’ program. While this is a much more mundane example, in conjunction with the quote by CW, it shows that the bigger picture as well as the minute details mattered for respondents when evaluating questions of access to information.

CA: [...] I suppose you realise that we are on at marginalised times, very early in the morning and just before the television news at night, so as few people as possible listen to us! Or at least it is a time that no one else wants, so that’s the time that we get. Earlier this year we got put back to an earlier time than we had before, and despite a *huge* reaction from *our* listeners, but probably not the mainstream listeners; nothing was done about it.

This is evidence from the field. Complementing this, several theoretical works have been written about the role of media both in relation to democracy and in relation to reporting on Indigenous issues. There are books written explicitly about the reporting of Aboriginal issues specifically in WA, and among those I should like to supplement data

by referring primarily to Steve Mickler's *The Myth of Privilege*⁸⁶ as well as to John Hartley and Allan McKee's *The Indigenous Public Sphere*⁸⁷.

Mickler's main point in *The Myth of Privilege* is that while there is a popular conception in Australia that Aboriginal people have access to better services than 'mainstream' citizens or are otherwise being treated advantageously, this is exactly a *myth* and nothing more. The idea of an Aboriginal privilege surfaced in the 1980s and gained popular currency despite decades of public exposure to Indigenous poverty and inequality. As he puts it, 'Accusations of privilege and exception to the rules carry enormous weight within a liberal democratic society' (Mickler 1998: 8), which echoes the liberal argument against special group rights cf. chapter 3. Mickler's point is that these accusations are empty, no privilege exists except in the fictions created by media. Therefore, he presents the idea that Indigenous people have a 'sovereign right to be ordinary' (Mickler 1998: 17), meaning that the media needs to portray Aboriginals as 'ordinary people' like the rest of the Australian population. 'Aborigines were excluded from those journalistic spaces where the 'ordinary citizen' or 'man in the street' was represented, that is, those styled as representing citizen views on social and political issues' (Mickler 1998: 126/27). He thus advocates a radical shift in the style of news reporting, so that Aboriginals can be presented as ordinary.

Speaking specifically about the situation in Western Australia and the fact that The West has a de facto monopoly on news reporting in the state, Mickler talks about an almost symbiotic relationship between the news media and the police concerning crime reporting; 'So dependent were newspapers on police for dramatic crime stories that police were able to affect the marketability of a newspaper by simply cutting the supply' (Mickler 1998: 30). Other interviewees also commented on The West's monopoly, and BG, who was involved with Perth Indymedia⁸⁸, also mentioned The West's 'cosy relationship with the cops'. He said among other things that 'there is no one to challenge The West Australian either'.

⁸⁶ (Mickler 1998). This book focuses specifically on WA. In conjunction with interview statements, this constitutes one form of data triangulation, cf. chapter 8.

⁸⁷ (Hartley and McKee 2000). This book includes substantial empirical data from WA.

⁸⁸ Perth Indymedia is the local branch of the global Indymedia network, which is a concept based on open access publishing on the internet, with local groups being in charge of their own server and webpage. Individuals can send in news stories and comment on stories already published on the homepage. See Homepage for Perth Indymedia <http://perth.indymedia.org> Accessed on August 4th 2005.

I interviewed Steve Mickler about the state of Aboriginal news reporting since his book was published in 1998, and on this occasion he again emphasised the strong links between The West and various political interests within the state.

SM: [...] The major shareholder in The West is WesFarmers [...] a large corporation supplying the agricultural and pastoral community of WA. That community has been *consistently* opposed to Native Title. [...] So, The West's ownership structure has direct links with the most politically conservative elements of the WA community. And the economic interest which has most difficulty with Indigenous rights. Are the most active in opposing them. So to some extent you can say this may be reflected in The West's editorial line on these issues...[...]. It has largely represented Aboriginal people in terms of social disorder and crime, threats to our welfare, threats to our economic prosperity, threats to the peace, threats to our homes, our cars. By and large that has been the coverage.

Possibly contrary to expectations, Mickler's survey of Aboriginal reporting in WA revealed that by the 1990s the Aboriginal population was overrepresented in the media in relation to its share of the population, but it was predominantly negative stories. '[T]he way Aboriginal people figured in Western Australia's news press in the period from the 1960s to the 1990s has also involved a series of significant transformations. Broadly speaking, Aboriginals in the news went from being a marginal problem to a major public threat; from powerless objects of policy to powerful subjects or agents upon policy, from oppressed subproletarians to a 'privileged' 'elite' group' (Mickler 1998: 100).

Complementing these points, Hartley and McKee write on the same topic that 'Aboriginality is overrepresented in the Australian news media in *factual* stories. While Indigenous *fictional* characters portrayed in popular culture are quite rare, Aboriginality turns out to be a massive *pressence* in Australian journalism. Aboriginality, and 'Aboriginal issues', continue to draw headlines, comment columns, and editorial opinion with a frequency unjustified statistically by the population of Indigenous people' (Hartley and McKee 2000: 209). They also take up the idea of focusing on 'banal stories' to confirm an ordinary existence, rather than speaking about a 'catalogue of anomalies': 'It follows, perversely, that 'banality' in this context is something of an achievement, not a misfortune' (*ibid*: 241).

'Banal', however, was hardly a word that figured in the vocabulary of respondents when speaking either about their own work with (Indigenous) reporting or about relations between Indigenous groups and the media in general. Many respondents appeared to have a lot of personal investment in their work, for example KB and CW, both from WA, the former working for SBS Radio and the latter for The West.

KB: When I started with the ABC, and it took me about a year to talk them into giving me an Indigenous round, because they had never even thought about it before, it was a whole new idea. And I think, when I started it, it was when *The West* started *theirs*. So they would have been having that round within that paper now for about 10 years. When I left the ABC they didn't bother any more.

CW: [...] So it was pretty shocking the sort of things that had come out [with the Gordon Inquiry]. And that inquiry was the reason why I started on Aboriginal affairs. Because up to that point we had had a lapse, where we had had no one reporting on it, and so with the inquiry coming up, it was important that we had someone on it. So that's where I started. [...//...]. There just wasn't someone available to step into it. And generally, other reporters are quite reluctant to do it.

This pattern of having to convince the news editor that it was necessary to have an Aboriginal round was hardly an issue in New Zealand, where GJ from *The Dominion Post* was interviewed. Among other things, he said that 'there is an appetite at this newspaper [...] for Maori stories', and that '[...] it's a given. It is a very good news source too. There are some very good stories that come out of it, so it makes sense to have it. And Maori are such a big part of the community that we can't ignore it'. Once again the different demographic facts of Australia and New Zealand play a role. But while this is part of the explanation, another part of it, according to several respondents in New Zealand, was that this country has gone through a historic development which has facilitated greater Maori involvement in many aspects of New Zealand's public life (which was not to say that all were happy about the level of involvement reached). Speaking about news reporting in general, GJ thus said that, 'But I suppose in the last 30 years there has been more reporting of Maori issues, definitely. And that's through a number of things. That's through more Maori in the media, it's through the Treaty of Waitangi settlements getting fast tracked through now. There is more of an acceptance of Maori culture in New Zealand'.

CA, working for Mana News, also spoke about how more Maori are training to become journalists, although she regretted the fact that so many of them moved into mainstream journalism to pursue a career, 'Unfortunately most of them end up going into the mainstream and not doing any Maori things. I suppose they brown it up, I mean, they get the brown faces there, and they might do just a little bit. But mostly they are intimidated'. While CA was not too happy about media coverage of Maori issues in New Zealand, she, and all other respondents within the mediasphere in this country, agreed on one thing: that there is a great variety in form and content of the media output in New Zealand.

GJ: [...] you have to realise that in New Zealand there is mainstream media like the main newspapers, and television, and national radio, but then there is also Maori media, which is quite strong. You've got a lot of things happening through those. So mainstream media: we don't cover the small bits, you know, we only pick and choose the big issues. [...] I only write about the stuff that I know will get in our paper – so it is not like the small inter-Maori thing, it is more the interrelationship between Maori and Pakeha.

GJ thus asserts variety in the form and content of media output, while explicitly acknowledging that each type of media has a tendency to promote its own stories of interests. Various 'activists' (as they would call themselves) involved with the Indymedia movement in Perth and Wellington were also interviewed. These people were generally rather ideological about their media involvement, and in Wellington I interviewed K, who specifically called for what he termed 'a cross pollination' of voices or interests on the webpage, meaning that he felt the divisions between mainstream and Maori media were too sharp. He explicated this viewpoint:

K: [...] you've got Mana Magazine, and there is a few others. [...] Even though they are there, there still isn't that link. I mean, you still pick up a New Zealand Woman's Weekly, and you won't get Maori stories in there. It is still [...] that (whether it is conscious or unconscious) sort of division amongst society: that's *your* stuff. [...] Like on National Radio you get Maori News for 15 minutes a quarter to seven each morning. And that's things happening in the world the Maori inhabit. Why are those stories just not part of the news? They still are recognised as different parts of society. And whether that is what they prefer, or whether they are really pissed off by that sort of thing – that's their debate.

Judging by comments from CA, who was one of those people producing the very early morning Maori News on the radio, she was in fact rather 'pissed off' by it. Nevertheless, she also asserted considerable pride in her work, obviously hoping that she *could* contribute to provide a varied media output, despite obstacles.

CA: [...] Having said that, I think that we have been able - even in our funny little time slot – we *have* got a bit of a dedicated Pakeha *and* Maori audience. But they all tend to be liberal people. But the odd person who listens and is far more conservative - we have been able to give people the impression that this [the foreshore and seabed legislation] is an abuse of law, it hasn't been allowed through the legal process, that Human Rights are being abused here.

While the majority viewpoint may have a tendency to be the one represented in the news media, and though minority reporting certainly is not an easy accomplishment in New Zealand either, there is no doubt that it does matter for the type of stories available to the public that the form and content of media outlets are varied. Judging by evidence from Western Australia, the same thing holds true for this setting, where people from both 'mainstream' and alternative media were also interviewed. Here the list of respondents includes several people involved in Perth Indymedia, which belongs on the

alternative media scene⁸⁹. As with respondents in New Zealand, they continually emphasised issues of access in relation to the form and content of media output. In the case of Indymedia, access plays a very central role in the entire driving idea behind this media form, which they called ‘open publishing’. But despite the fact that everybody in principle could contribute stories on the webpage, in practice few people did so. AB: [...]. ‘There’s only a couple of us who actually do the feature stories. We need more people actively engaging in this Indymedia. I think people don’t realise you can actually *be* the media. *You* can write a story and *you* can publish it. Therefore you have complete control’. And in a more ideological vein:

BG: [...] It is dialogue that people share in their daily lives – to me that is the best and most effective kind of activism, creating awareness and creating a space within your own life to be able to behave as close as possible to your morals or whatever your values are. And be able to just educate people and enlighten people, without ramming down their throats that what they are doing is wrong. It is just opening up a dialogue for them to participate...

Making ‘complete control’ rhyme with not ‘ramming down [people’s] throats that what they are doing is wrong’ does not seem a straightforward exercise. Nevertheless, their message is clear, insofar as the idea behind Indymedia is that everybody can post their own news stories on the webpage, and from there the discussion is open, so that everybody who reads these stories can send in comments, which will then be accessible via a debate link from all the original stories. In this way, users of Indymedia control which stories and comments they send in, while simultaneously (provided that comments are made) reading reactions and viewpoints from other contributors. Respondents were modestly optimistic about the amount of difference such a news source would make in Western Australia, but considering the virtual monopoly on written news exercised by The West, they felt that it *was* important to have at least some kind of alternative. Small as their contribution may be, others within the Western Australian media sphere agreed that independent and alternative news sources were very important for maintaining critical quality reporting. KB from SBS Radio had previously been the editor of The Aboriginal Independent News, which according to himself was the only ever really independent Aboriginal news outlet. He had very strong views on maintaining political independence when reporting on Aboriginal affairs.

⁸⁹ For a definition of ‘alternative’ vs. ‘mainstream’ media, see chapter 13.3.

KB: Well, they [Yamaji News in Geraldton] are not an independent newspaper, they are funded by the language centre, which is funded by ATSIC. And they are not at all political. The last editor that tried to do a political news story was sacked. [...] We were the *only* Aboriginal political newspaper in Australia! Even the Koori Mail, which is the big national Aboriginal newspaper, even they get *a lot* of their funding from ATSIC. So you'll never see a critical story about ATSIC in the Koori Mail. [...] And that's why we *never* went for Government funding. We would rather fail, which we did! – well, economically. We would rather fail than go for Government funding. Because as soon as you do, you compromise yourself. Straight away you have to stop criticising that section of the Government.

Thus, according to KB, being able to publish political stories on Aboriginal affairs was easier said than done in WA – and certainly very dependent on having a varied media scene in the state. The only one who according to herself experienced no such problems was CW from The West, and one may speculate that those 'really good quality pictures appealing to the newspaper' might be accompanying stories of less than explosive political news.

CW: [...] Everything I write usually gets published; I mean, I might not be happy about *where* it gets published, I might have preferred it to be closer to the front. But I think I have probably learned, or did learn quite a lot on Aboriginal affairs, that I could help strengthen the position it was run in the paper by getting good photographs. So that means working closely with photographers to make sure we've got really good quality pictures that are appealing to a newspaper.

This is not to deny that CW did in fact write critical political commentary, one case she stressed particularly was around the issue of the Northbridge curfew. It is, however, evident from the WA data that greater variety in form and content of the media would provide a better platform for democratic dialogues. There was a general feeling that independent media outlets really able to challenge the mainstream stories were few and struggling. It is unlikely that anybody working in Maori media in New Zealand would have presented it as an easy job either, although only one journalist (CA) was interviewed within this category⁹⁰. Nevertheless, competition and variety in New Zealand mainstream media was far more pronounced than the case was in WA. Therefore, the likelihood of reader exposure to a varied number of viewpoints is greater. This impression was supported by two months of subscription to The West (from mid February to mid April) and one month to The Dominion Post (from mid May to mid June 2004). During these periods of surveying a mainstream paper in each locality, all articles related to Aboriginal/Maori affairs were retained. While this quantification says

⁹⁰ Evidence to back up such a claim can be found for example in the work of Sue Abel, 'Television News Coverage of Ngapuhi's Media Ban 2003' (unpublished article), and Abel 1997.

nothing about the *content* of these articles, it is quite telling that there was about twice as many articles from The Dominion in half the survey time compared to The West. Concluding on the first coding category of ‘access to information and freedom of the press’, there is no doubt that this was in fact impeded by the narrowness of the Western Australian mediascape.

Moving on to discuss interview statements on the relations between media and government, this somewhat smaller category of statements complement more directly the debate in subchapter 11.2 on systemic openness. While the analysis of systemic openness, or lack thereof, centered on interview statements by people working in the government sector about their perceptions of relationships with the media, these following few pages will look at the relationship from the opposite side, namely focusing on what journalists and other people working within media had to say about their relationships with politicians, government departments, and spokespeople from various organisations.

To start at a more theoretical level, it bears repetition that ‘access to listen to other viewpoints and possibly be influenced by them’ was emphasised as an important inherent theoretical variable in Habermas’ model of deliberative democracy (see chapter 7). Table 7.1 suggested that the empirical evidence to measure and evaluate such a theoretical proposition could be found for example in the variety and content of the media output available for public consumption. Data supports the notion that issues of democracy and governance hang closely together with the media’s ability to provide adequate information for the public about what is going on on the political scene. This proposition is also supported by for example James Curran’s essay ‘Rethinking the media as a public sphere’⁹¹, where he among other things writes that: ‘A central role of the media should be defined as *assisting the equitable negotiation or arbitration of competing interests through democratic processes*’ (p.30, original emphasis). He further states that the media also has a role to play in ‘*broadening the access to the public domain*’ (*ibid*, original emphasis). In other words, his recommendations closely echo the normative conclusions reached towards the end of Part I, namely that negotiation or arbitration of competing interests is best done through democratic processes, and that theoretically, as well as empirically, the media has a role to play in this.

⁹¹ Curran in Dahlgren and Sparks (eds) 1991: 27-57.

Also speaking from a theoretical position, but with substantial knowledge about the Australian media scene, John Hartley in *The Politics of Pictures*⁹² adds to the theoretical debate over the inherent relationship between ‘politics’ and ‘pictures’, or what I have more broadly referred to as ‘democratic influence’ and ‘media’. In the introduction to his book he thus writes,

The book as a whole is interested in what I’ve called the ‘three Ds’ – drama, didactics, and democracy – three public virtues which according to classical political myth are coterminous [...] Now, however, the three Ds have been institutionalised; they’re no longer what people do, they are the gigantic social institutions of media, education and government. Each of these institutions strives to create the public in its own image, and it is part of the argument of this book that of the three, the one which creates a public closest to that of the classical model – that is the public which is simultaneously performative, participatory and pedagogic – is the one with the least social prestige and fewest political credentials; the media (Hartley 1992: 7/8).

This proposition very closely echoes the research design for this study, in the sense that the three ‘spheres of deliberation’ under investigation (based on recommendations by Addis) are exactly those institutions mentioned by Hartley. However, rather than viewing these as competing for public attention, data suggests that they can be seen as complementing each other rather than competing in (to use the formulation by Curran) ‘*assisting the equitable negotiation or arbitration of competing interests through democratic processes*’.

Hartley states that ‘The old, mutually sustaining, classical virtues of democracy, didactics and drama have been dis-integrated; education gets the didactics, the media take the drama, government gets the democracy, and the public gets taught, entertained, governed, apparently independently, and often without much consultation’ (Hartley 1992: 120). But the data analysis here shows that it is empirically wrong to assume a sharp division between how ‘the public gets taught, entertained, and governed’. We are no longer living in the classical age, where the agora was the physical or geographic location of these services, and they therefore were closely integrated. This, however, does not preclude the continual influence of education and governance in promoting what Hartley refers to as the public virtues.

Highlighting the role of the media, Hartley states that, ‘[...] underlying it all is a [...] sense that of the three main institutions of ‘publicity’ – government, education, and the media – the media have retained and refined the *strongest* sense of integration of the three Ds of democracy, didactics and drama’ (*ibid*: 121, my emphasis). Data presented

⁹² Hartley 1992.

below on media relations with the government will support Hartley so far as to say that ‘the media have retained a [*strong*] sense of integration of the three Ds of democracy, didactics and drama’. Certainly, several respondents commented on both the political, educational, and entertainment aspects of their work within the mediasphere. But it would be going too far to conclude that the media is the one of the three social institutions which has fared best in retaining this integration of virtues.

Starting with an example of how the media has a role to play in relation to democracy, CW, working for The West Australian, said that

CW: [...] I do find that Government is quite willing to let me know when they have announcements or things they want to get out there for the public to hear about. So they are happy to sort of come to us first, as a sort of strategy of getting their message out. I like to think that we don’t just give them a way of getting a message out, but that we still make sure that you get the other side of the story as well. But sometimes it works well for both of us.

Thus she acknowledges her dependence of maintaining a good relationship with Government representatives, while at the same time asserting her professional independence. The relationship may be symbiotic, but whether or not one would credit her (or her organisation) the ability to maintain a critical distance to their sources, it is certainly empirical proof that politics is an integral part of reporting, and not just a theoretical component.

Many cross-purposes exist within the mediasphere, and the following example goes to show that Hartley is at least right in postulating a high degree of integration of ‘democracy, didactics, and drama’ within the media. However, this is not necessarily the only public sphere where such integration is evident. This quote is by SM, who besides his academic work has a lot of practical experience with Australian media – in this case didactic experience with promoting political uses of media for Aboriginal groups; thus covering all of Hartley’s three Ds at the same time.

SM: [...] And I was involved back in the 80s in training people in public relations techniques and media management techniques, writing press releases, giving media interviews, things like that. But by and large those Aboriginal organisations have learned through trial and error. How to use media. And the big organisations have become quite skillful at it, and even some of the smaller regional ones now understand the importance of inviting media to have a look at projects, making press statements, getting your story across, all of these things. Having relationships with journalists, so that they can call them up and brief them on the background [...].

One aspect of the media in Western Australia is the difference between ‘mainstream’ and ‘Indigenous’ media, which played a great empirical role. As emphasised previously,

The West Australian played a highly significant role in terms of what counted as news in the state, because of its unusually high penetration rates. This was something repeatedly pointed out by journalists as well as representatives from various institutions, and CW readily acknowledged this, in fact bringing up the issue on her own initiative.

CW: [...] I guess we are in a fairly unique position to a lot of big Western cities in that we only have *one* daily newspaper. And some people perceive that that is a problem, but I think the way we perceive it here is that it makes our position more important, and we are aware that we do have a really important role to be all we can to as many people as possible. So we've got a broad readership to get to, and we are writing for everyone. We don't have the luxury of deciding we want this market, we want academic educated people, or we want more working class people. We can't make that choice.

One can always argue over whether this 'fairly unique position' was problematic or not (many respondents felt that it was), but it is interesting that CW's focus is on the didactic responsibilities she sees following from this position, rather than on the de facto monopoly on (at least written) news by The West. She was not alone in thinking that her media organisation had 'a really important role to be all we can to as many people as possible'. Making a huge jump both culturally, geographically, and organisationally to Goolarri Media in Broome, the two representatives from this small, Aboriginally run radio station in the Kimberleys also emphasised their need to maintain relations with the Government and uphold didactic responsibilities towards their mainly Aboriginal circle of listeners⁹³.

Speaking about their relationship with the Government and to what extent Goolarri Media is instrumental in informing about Government initiatives, DW said that 'we are on some of their press release band wagons', the question was only whether it was the relevant information that got sent out. She aired the thought that they needed to educate the Government about their need to use Goolarri services to disseminate their ideas; in other words she saw the organisation as having a didactic role to play both in terms of their listeners, but also in terms of letting the Government know about realities in remote Aboriginal Australia. In terms of educating their circle of listeners, DW expressed the opinion that rather than merely interacting with the Government around

⁹³ For practical reasons this conversation was not recorded, as I spent a couple of hours at the radio station being shown around and talking to several people working with different areas within Goolarri Media Enterprises. Main informants, however, were the director [KF] and co-director [DW] of the organisation, and they have both been given the opportunity to review notes from the visit.

election time, Goolarri Media could be used to spread information on everyday issues such as drinking and driving and health.

The director, KF, said that Government use of sources was very much dependent on market forces (in other words, the number of listeners to a radio station), which might not be an appropriate measuring rod in relation to spreading information, although he could certainly see why they would work that way. He said that media outlets were competing to 'win the job' of spreading Government information. But this way, the Government would miss the Aboriginal message developed by and for Aboriginal people. In other words, he expressed the view that Radio Goolarri could provide didactic services, which other media outlets might not be able to deliver, because of their experiences in communicating specifically with the Aboriginal community.

DW said that one of the Government's difficulties was that they were very keen to try to distribute things equally, and they wanted the same all over. Hence they would sometimes not use the services of Goolarri, because Goolarri has no equivalent in the south west. This then resulted in a kind of selective inclusiveness, which she felt was unfair, especially considering the proportion of Aboriginals within the state living in the north west (approximately 23%). As she put it 'They know how to use us when it is election time', while both she and KF agreed that the Government approach should be more holistic in terms of using Aboriginal media. KF put these deficiencies down to 'ignorance, blockage, and lack of desire to engage'.

Speaking about 'a lack of desire to engage' is a very harsh evaluation of Government relations with non-mainstream media outlets. However, this Australian experience does hold comparison somewhat, with experiences related to me by CA, who was at the time working as a journalist for a Maori media organisation. She spoke at length about problems getting access to politicians and other political representatives. She is quoted at length, because she gives a lot of practical examples, as well as a story of changes to the impact and influence of Mana News. Changes CA largely put down to a changing political climate in New Zealand surrounding the role of Maori in politics.

CA: We had – talking about access – we have had awful trouble, being a minority program, getting access to politicians and various heads of departments and that sort of thing. [...] But in recent times, there has been a change in some areas. Last year, somebody from Mana approached the Prime Minister herself at a do and said 'look, why don't you come on Mana?' and she [...] says 'Oh, yes, ok'. So we took

it up. But prior to that I never had an interview with a Prime Minister for Mana. When I worked in television it was the easiest thing on earth, you just rang up and they were pretty nearly always available, Prime Ministers, for television news. You get to Mana, there is nothing. [...] *Now* we actually have a monthly arrangement. Now, with other ministers it has been extremely difficult, too. For instance the Minister of Fisheries, until we got the new Minister in [...] we had never had an interview with a Minister of Fisheries in spite of the *huge* interest of Maori in the fishing industry. They own 40-50% of the fishing industry in New Zealand. And it's a *primary* concern for them as an Indigenous people. But the Minister would never ever talk to us. [...] And a lot of the Maori MPs also avoided us. And they could do that because we were nothing, we had no power, no say. But now that they feel politically at risk, because the Maori vote is moving away from them, things have changed quite dramatically.

This statement is in sharp contrast with the following quote by GJ, reporter on The Dominion Post. GJ's special field of reporting was Maori affairs, particularly Maori political affairs. As was the case in Australia, the difference between working for a 'mainstream' media organisation and an Indigenous one appears to make itself heavily felt when it comes to contacts with government and other people in influential positions. H: '[...] So do you get approached by politicians about their stand on different issues? GJ: Oh, yeah, definitely. Because we are still a very good way to get the issue out there. Because if we write a story it will be picked up by radio or vice versa'.

Politicians, however, might not always be quite satisfied with the coverage they get. This is something both GJ and CA agreed on. Where they differ is on the strength of the disagreements described; notice GJ's smoothing over of differences in the following, in contrast with CA's talk about intimidation.

GJ: Oh, I mean, by the mere fact that we've only got that much space to put in a story, there is always going to be tightening. We won't be able to tell the full story. And politicians will complain about that, that they aren't given a proper run. But that is the nature of news, it is not so much a thing about Maori, it is more just the way newspapers work. You know, it is news. We haven't got the time or the room to give over pages and pages of stuff to people.

CA: There have been a number of attempts to really intimidate us. First of all, they tried by refusing – the Government wouldn't be interviewed by us. Basically by *me*, really. Then they put in a complaint to say that we were running biased stories! And really, if we were going to balance it, it had to come from the Government, because there were no credible Maori people who supported it, so there weren't any to go to!

Based solely on these two interviews, it is, however, not possible to conclude that good or bad relations between media and government merely comes down to whether the journalist represents a mainstream or an Indigenous media outlet. There certainly are differences in the *content* of these kinds of media, but a strained relationship with 'the powers that be' does not necessarily follow from this. In fact, a rather odd example of this came from K, involved in the Wellington branch of Aotearoa Indymedia. Media

hardly becomes more decentralised and ‘power-dispersed’ than this, with various respondents continually emphasising the anarchistic structure of this global media ‘network’. Nevertheless, in Wellington, K asserted that people of some influence were not beyond personally sending contributions to the website. ‘I know that people in Parliament *post* on the Indymedia. Like one of the co-leaders of the Green Party, she posts press releases and things there. And that is quite interesting to know, people in the Beehive⁹⁴ sending things to Aotearoa Indymedia’.

To what extent this is a phenomenon confined to members of the Green Party, I do not know. Moreover, considering that the editorial policy of Indymedia is to *not* edit contributions (other than deleting overly racist and otherwise offensive ones), one can always argue over whether this proves anything in relation to the democratic and didactic potential of media. Nevertheless, it is safe to conclude that while experiences as well as ideologies differed between interviewees within the mediasphere, the importance of maintaining contacts between the sphere of governance and media *was* acknowledged by all interviewees. However, there was no universal answer to who should be teaching what to whom. Hartley seems to be right when stating that ‘drama, didactics, and democracy’ hang closely together within contemporary media – my point merely being that I suspect they also do so within the other social institutions of education and governance.

Many types of empirical evidence have been analysed in chapter 11, and a great number of coding categories have been introduced and commented on. Recapping briefly on the overall question for this chapter on access to political decision-making for respectively Maori and Aboriginal groups, one of the recurrent conclusions have been that demographic and historic factors such as the proportion of Indigenous people in society and their history of citizenship impact on the relative success of attempts at minority inclusion. This is not the full picture, however. Evidence has also shown that the New Zealand Government has in fact come a long way through institutional engineering and imposing terms of engagement on local governments. Neither is there any doubt that large parts of the WA public sector are keenly trying to improve relationships with Aboriginal groups and gather knowledge about best practices. However, extra-governmental contingencies such as the rather centralised media scene

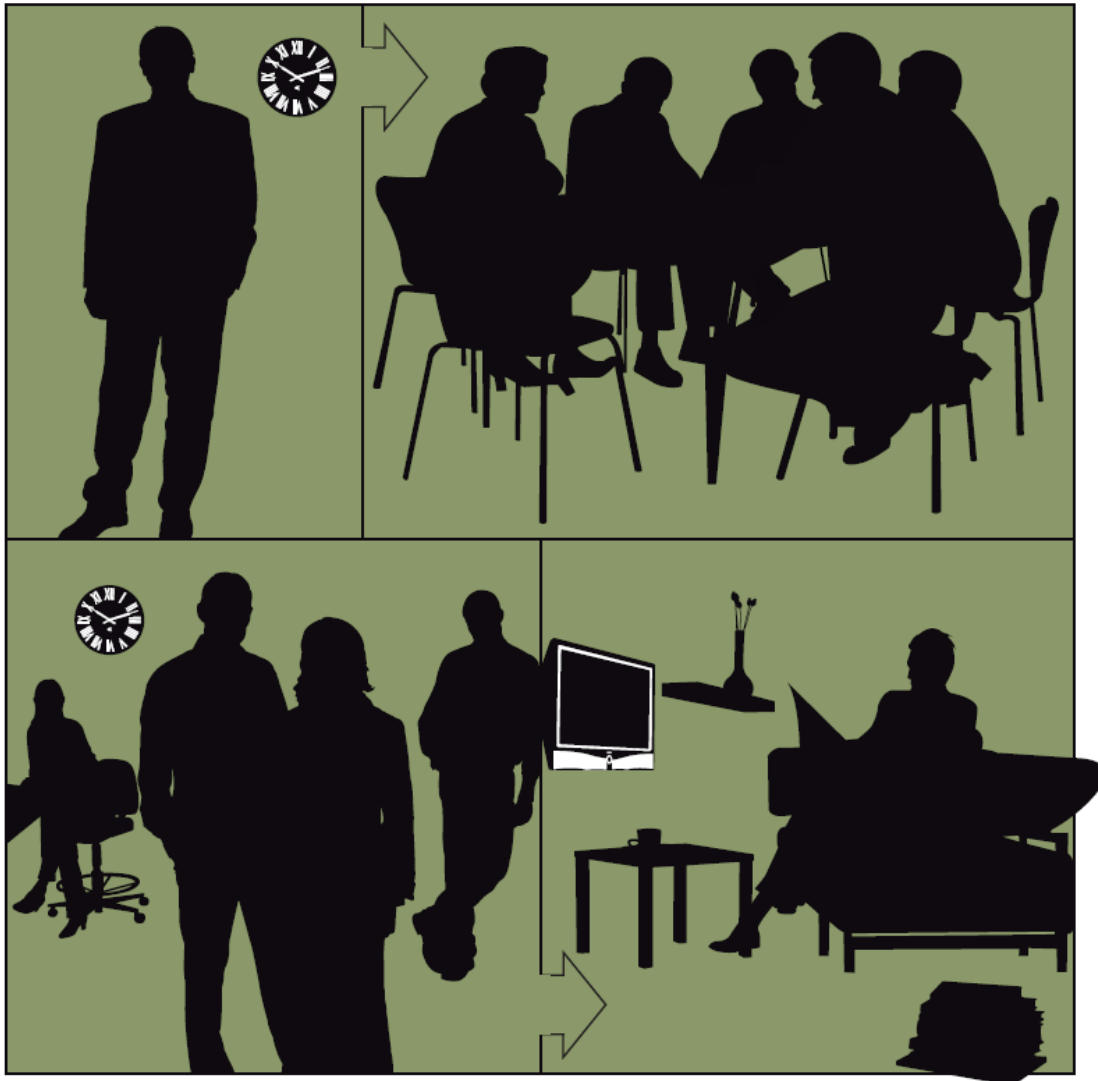
⁹⁴ Nickname for the New Zealand Parliamentary Building, which looks rather like a gigantic beehive.

and lack of access to media for Aboriginals in WA also impede Aboriginal access to express and listen to various points of view.

Chapter 12: Opportunity

Chapter 7 identified two different ways in which *opportunity* plays a theoretically important role in debates. One is the opportunity to express one's opinions or points of view, and the empirical evidence for such opportunities can be found for example in occasions for debate and political review and consultation processes, particularly the temporal aspects involved. An answer is sought to the analytic question 'When do people debate?'. The second analytic question involving opportunity is the question of when and where the wider public is kept aware of debates. As the focus remains temporal, the answer can be found by looking at how the collectivity consumes information. These two different ways of analysing *opportunity* correspond with a different set of dynamics compared to the analysis of access in the previous chapter. Therefore, the basic model for analysing debate processes can now be redrawn to indicate the dynamics relating to opportunity. Adding the arrows below thus converts the basic model into an 'opportunity model', in the sense that these arrows signify opportunities for individuals to express viewpoints to decision-making arenas, as well as opportunities for the collectivity to listen to viewpoints via the mediating arenas. The temporal dimensions to these questions have been indicated by the drawing of watches.

OPPORTUNITY MODEL



The arrows in the model indicate the following questions for analysis:

12.1 Occasions for participating in debates

12.2 Interest in following debates

The analytic questions from table 7.1 of *access* and *opportunity* to listen to various viewpoints are closely intertwined, and often hard to disentangle in the actual analysis. This is because while they spring from separate theoretical variables inherent in the model of deliberative democracy, they are difficult to distinguish empirically. Access to dissenting viewpoints is something that can be structurally arranged by various

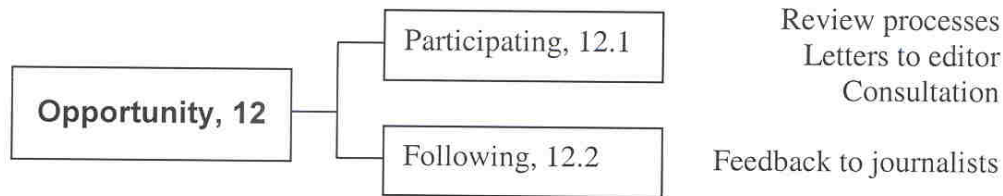
institutions such as for example alternative media sources. Opportunity to actually listen to such viewpoints is dependent on access, but ultimately is a question of individual investment of time and interest, and therefore not directly measurable given the nature of the data obtained.

Comparing the ‘access model’ and the ‘opportunity model’, these two models signify opposing directions of initiative concerning media consumption. Meaning that in the case of *opportunity* it is not a question of the mediating arenas making information available, but a question of to what extent this information is *used* by the collectivity. However, obtaining qualitative data from the collectivity about consumption of information would be an overwhelming task. And while statistical material on the number of readers of/listeners to different forms of media or political messages might be available, this hardly says anything about *why* people choose to listen to such information or what compels them to take an interest, nor, indeed, how they concretely process and possibly convert such information for their own consumption.

Channels of access to information are much more easily identified than the temporal aspects involved in consuming information. Therefore the analysis of access above contains an indirect measure of opportunity, in the sense that without access, opportunity becomes irrelevant. However, more concrete indicators of opportunity to partake in debates will be sought. While these still remain indirect measures, focus will be on two analytic questions pertaining to the opportunity model, namely whether there are occasions for individuals to partake in debates, and whether the collectivity shows interest in following debates. These questions will be answered through application of data from various coding categories⁹⁵, which will be introduced and explained along the way. A quick overview can be gained through a reproduction of the relevant section of the diagram from the introduction to Part III, indicating the focal points for the remainder of this chapter.

⁹⁵ Only two of these coding categories (‘consultation’ and ‘feedback to journalists’) have been developed through open coding of interview data (for a definition, see chapter 9). The other categories employed in chapter 12 are based on written sources, but the analysis is still driven by a search for prevalent themes and use of concepts.

Coding categories



12.1 Occasions for participating in debates

The analysis of individual opportunity to partake in debates will be based on three types of data, namely policy documents indicating procedures for political review processes, letters to the editor from the two newspapers surveyed, and finally interview statements about consultation practices. Of these, the first and the last will play the greatest role, because they contribute most to a qualitative picture of occasions to participate in debates. The letters to the editor will be commented on very briefly, partly through a quantification, and serve to supplement the qualitative data.

One of the suggested empirical sources for evidence that opportunities to partake in debates exist was ‘political review processes’ cf. table 7.1. The initiative to instigate such processes will often come from the political arena itself, but provided citizens take up the invitation to contribute to these processes, they can indeed be regarded as *opportunities* to partake in debates. Data obtained for this study does not include interviews with ‘the collectivity’ about whether they utilise such opportunities. However, data includes a series of publications from various governmental institutions, which are at least partial evidence that the governments of Western Australia and New Zealand actively seek to create opportunities for individual input into debates about policy-making.

The most obvious example of inviting to debate is the series of government publications from WA called *Consulting Citizens*. These were also the guides referred to in chapter 10, establishing *interest* in participating in debates. The first guide in this

series, *Consulting Citizens: A Resource Guide*⁹⁶, is developed with inspiration from academic research and writings on citizen consultations; it even refers directly to the idea of deliberative democracy (p.5). While some parts of this guide, especially the introductory chapters, are somewhat academic in tone, it is meant as a practical tool for government officials to facilitate opportunities for citizen input in political decision-making processes. On p.i the purpose of the guide is explained: 'This Guide has been produced as the first step in establishing best practice guidelines for government agencies undertaking consultation'. Interestingly, it is also suggested that the guide has broader application, and could be used for example by project developers, politicians, consultants, NGOs, and interest groups.

While the guide can be regarded as a tool in generic opportunity creation, it also relates directly to *individual* opportunity, for example in the foreword by Premier Dr. Geoff Gallop: 'For individual citizens this [genuine consultation] provides an opportunity to express their views and influence the outcomes of decisions that affect them' (p.ii). What exactly 'genuine consultation' is, is the aim of the rest of the guide plus the two ensuing guides to explain and give directions about.

The guides cover a wide a range of issues regarding consultation, but one aspect is creation of opportunities in a temporal sense, which corresponds with the opportunity model above. Time is for example listed as item no.4 in the figure on p.2 in the first guide, which details 'guiding principles for engaging citizens in policy-making'. Here time refers both to the timing of consultations as well as to the time to be used on it: 'Public consultation and active participation should be undertaken as early in the policy process as possible to allow a greater range of policy solutions to emerge and to raise the chances of successful implementation. Adequate time must be available for consultation and participation to be effective'.

The guide asks specific questions to its users (principally government officials) in the planning stages of consultations, for example the following three linked to opportunity:

- What level of commitment, in terms of time and resources, is sought from stakeholders?

⁹⁶ The Government of Western Australia, April 2002.

- When would be the best time to consult?
- How much time can be spent? (p.7)

In fact, there is a whole section on time called ‘Determining Resources Required – Time, Skills and Cost’ (p.12). The ‘timing’ section, quoted below, speaks directly about timing and the creation of opportunities for individuals to partake in debates. From a deliberative democratic perspective, it is interesting to note that the guide speaks both about setting aside time to inform, let people reflect on issues, and formulate ‘considered responses’.

Successful consultations are implemented according to a well-defined schedule, particularly for those consultations designed to report on a specific issue. Sufficient time needs to be allocated to every stage of the consultation process to allow proper monitoring and due consideration of progress. Poorly planned consultations add to the level of cynicism some members of the community have towards government (and other) consultation initiatives. Consider the following points:

- Having a realistic timetable is valuable for all participants. It can indicate what they can expect (short or long term commitment) and when. The timing of consultation may need to be adjusted to suit consultees’ schedules, for example conducting consultation events after business hours, or outside of public or cultural/religious holidays.
- Timing can also be important in a secondary way because some issues may be more prominent at particular times of the year (e.g. water consumption).
- Ample time should be provided for consultees to participate throughout the consultation process, to become informed of the issues, reflect upon the information and make considered responses.
- Consideration should be given to the meeting of cycles of different organisations, and the time it takes for groups to be involved in formal discussions, debate and awareness raising (p.12).

The second guide in the series *Consulting Citizens: Planning for Success*⁹⁷, is best described as a practical tool kit for planning and carrying out consultations, and contains little specifically related to the issue of opportunity as defined by temporality. However, it contains an interesting typology of different participants in consultative processes, distinguishing between ‘highly involved’, ‘attentives’, ‘browsers’, and ‘general public’ (p.24). Especially the first category is interesting from an opportunity perspective, and this category is described as

[...] those who want to know what you are doing in detail. They will be willing to be engaged in one-on-one interviews, they will want to be involved in a Community Advisory Panel and directly negotiate with senior managers, ministerial advisers or Ministers. They are likely to be known to the organisation already – look through complaint files, letters to the Department or the Minister, in media articles or letters or in activist organisations (p.24).

⁹⁷ The Government of Western Australia, June 2003.

If government officials will ‘look through complaint files, letters to the Department or the Minister, in media articles or letters or in activist organisations’ (or even just in a small proportion of them), there should be ample evidence for individual opportunity to participate in debates and decision-making. This conclusion is further strengthened by the fact that the consultation guides are written for *all* Western Australian government officials working in departments or ministries.

The last guide in the series is specifically concerned with the inclusion of Aboriginal citizens, and is called *Consulting Citizens: Engaging with Aboriginal Western Australians*⁹⁸. This guide is more specifically designed for government officials and others working directly with Aboriginal communities; and it details a lot of facts about this population segment, the history of Aboriginal discrimination in the state and the country, and gives some general guidelines for proper and appropriate conduct and respect. In contrast with the previous guides, the introduction by Geoff Gallop is both apologetic in tone and makes reference to history. The guide has been developed in cooperation with ATSIC and contains references to the Statement of Commitment⁹⁹ as discussed previously under *interest*. There is a second foreword to this guide by Brian Champion, acting head of ATSIC in WA, where he mentions opportunity: ‘One of the wonderful outcomes from this resource guide is that it will provide Western Australia’s Indigenous people with a much greater opportunity to set agendas in partnership with government’ (p.1).

The guide principally spells out a lot of reasons for Aboriginal peoples to be sceptical about consultation processes and gives some ideas for how to counter this scepticism. It says only little about opportunity as such. However, the last section in the guide, called ‘Where to from here?’, contains the heading ‘Allowing opportunities for engagement’ (p.30). Here it is among other things stated that

Not all Aboriginal people choose to be involved in Aboriginal organisations. They nevertheless have interests in Government activity and their needs for engagement need to be understood, and measures taken to create opportunities for their involvement in government decision making and to allow their feed back on how government programs might affect them.

This is proof that there is at least an *intention* to create opportunities for individuals to partake in political decision-making processes, also for Aboriginal citizens. The quote is

⁹⁸ The Government of Western Australia, March 2004.

⁹⁹ See appendix e.

followed up by a reference to the consultation guidelines set out in the two previous guides, meaning that in this respect, as well as in others, care should be taken to give Aboriginal citizens the same opportunities for engagement as other citizens enjoy.

However, this may be more easily said than done in view of the considerable socio-economic disadvantages Aboriginal people will often find themselves under. While the public sector is not likely to conduct its business in a consciously racist manner, LD from the Office of Multicultural Interests, talked a lot about what she called ‘systemic racism’. Her department has produced a booklet called ‘The Public Sector Racism and Equality Program’¹⁰⁰, which details the plan for combating systemic institutional discrimination, which is described as ‘the unthinking continuation of routine organisational practices that *in their effect* are discriminatory’ (p.3). The implementation plan for this program contains clear consultative ideals. Under the heading of ‘stakeholders’, it is for example stated that

In a Program committed to guaranteeing equitable and appropriate service delivery to all persons within Western Australia it is clear that service users are key stakeholders in shaping the form and implementation of the Comprehensive Plan. Thus, consultation with service users is a necessary element in the developing and piloting of the Comprehensive Plan. [...] However, equally the service providers and the personnel at every level within the public sector are also key stakeholders. To regard them as anything less is to imply that they have no interest in quality service provision or that they must be an inevitable part of the problem rather than essential to the solution to the challenge this Program addresses. [...] Consequently, it will be essential to the development phase and implementation of the Comprehensive Plan that service providers are involved and consulted (p.13/14).

This example shows that not only has the WA Government published a series of guidelines on citizen consultation, it also apparently practices what it preaches in terms of having a consultative approach both internally and externally when implementing such a comprehensive plan as ‘The Public Sector Racism and Equality Program’, which according to LD and the publication itself is going to affect *all* governmental institutions in WA. It indicates that the WA Government is geared to create opportunities for individuals and groups to partake in decision-making, although the production of policy documents in itself does not ensure actual inclusion.

The approach to participation, and specifically Maori participation, is somewhat different in New Zealand. Here Te Puni Kokiri or the Ministry of Maori Development (TPK for short), has a special monitoring role within government:

¹⁰⁰ This is not a published document, but a small handbook to employees in affected departments about the piloting of this program. Dated 6th of April 2004, it was given to me at my visit at the Office of Multicultural Interests on May 13th 2004.

TPK is the Government's principal advisor on the Crown's relationship with iwi, hapu, Maori communities and other Maori groups, and on key government policies as they affect Maori. TPK has a legislative responsibility 'to monitor and liaise with each department and agency that provides or has responsibility to provide services to or for Maori for the purpose of ensuring the adequacy of those services'¹⁰¹ (TPK 2002: 15).

Comments in the following will focus on three reviews from TPK on government policies and/or particular departments. Brief comments will be made on the *content* of two of these, while more attention will be paid to their *form*, as the form reveals more about consultation practices or lack thereof than does the content.

The first review is called 'Strengthening Families'¹⁰², and is an audit report on a particular type of social policy called 'collaborative case management', where social agencies are encouraged to work together to create solutions for particular client families. The report concludes that Maori input in development of the policy has been insufficient, and that policy practices often take little or no account of particular Maori needs and wishes. The review is from 2001, and investigates the effects of a policy introduced in 1997. The background for introducing the policy of 'collaborative case management' is that so-called 'high risk families' can have up to 23 social service agencies working with them at the same time. It is stated in the conclusion to the audit that 'The over-representation of Maori as high risk families may have been expected to trigger a more consultative approach in the formative stages of the initiative' (TPK 2001: 31).

The conclusion to the report is that not enough consultation has taken place over the introduction of this policy, and at the same time the audit itself is exactly carried out as a measure to be open to policy input. Thus it says in the foreword to the report that: 'This audit on Strengthening Families collaborative case management arose out of concerns that collaborative case management might not be reaching Maori whanau, and that the process itself might not be as successful as expected in improving the lives of Maori whanau' (TPK 2001: 4). Therefore, the report can be regarded as a post facto attempt at inclusion – inclusion, that is, of TPK as the Government's watchdog in these matters, rather than direct inclusion of Maori citizens (although the TPK audit team has carried out qualitative interviews with Maori clients of this policy).

¹⁰¹ Stated under the heading 'Mandate and Objective for the Follow Up Review'.

¹⁰² Te Puni Kokiri, December 2001.

The second review in focus here is a follow up on a previous review by TPK of the Department of Conservation's relationship with Maori¹⁰³. These reviews are in both cases instigated by the Department of Conservation itself. The second review is generally positive, stating that the Department is making progress, although further courses of action are suggested. It comments that Maori are both treated as stakeholders in environmental matters as well as Treaty partners. It is stated in the introduction to the chapter on the Department's relationship with Maori that

The Department aims to promote a conservation ethic within New Zealand society as a whole by working collaboratively with communities and encouraging their participation in the conservation activity. In respect of Maori, however, there is a particular requirement for the Department to focus on maintaining and developing effective relationships. These relationships provide a platform from which the Department can give effect to the principles of the Treaty of Waitangi. They also contribute to better conservation outcomes as knowledge and understanding develops, and the Department's behaviour and practices are modified accordingly (TPK 2002: 17).

This particular review contains some recommendations and points which indicate what can be considered deliberative practices. Especially the section called 'Including tangata whenua perspectives', is interesting from a deliberative perspective.

The Department recognises the need to include tangata whenua perspectives in the development of its national policies and processes, and has begun work on a national participation policy to facilitate this. [...] TPK notes that consultation with tangata whenua in respect of Nga Akiakitanga¹⁰⁴ is likely to raise expectations of continued opportunities to provide input. This lends some urgency to the need for a policy on national participation (TPK 2002: 33).

Creating expectations for continued opportunities to provide input would indicate a development towards a more consultative or even deliberative approach to policy-making. However, a review by a government institution of another government institution will be highly unlikely to create such an impetus in itself, even though the auditors have once again partly based their report on qualitative interviews with Maori stakeholders. An overall consultative approach like the one sketched by the Consulting Citizens guides from WA would very likely be more efficient. Still, two obstacles remain: Will such policies in effect be carried out, and if so, will they unfairly disadvantage the Indigenous populations due to either socio-economic or cultural

¹⁰³ The first review is Te Puni Kokiri, November 1998. The second is Te Puni Kokiri, January 2002.

¹⁰⁴ A particular conservation program with a tribe, trialled by the Department of Conservation at the time of the review.

barriers keeping them from utilising such opportunities? This latter question is taken up by TPK in the review of the Department of Conservation:

The Department has a clearly recognised formal process for confirming strategic priorities and ensuring that iwi and hapu issues and interests are accurately represented within this. This process is the same for other (non-Maori) issues. TPK acknowledges the Department's decision to integrate matters Maori within its wider activity, rather than manage them apart from normal operations. We are concerned, however, that some staff appear to lack the confidence in the process as a conduit for iwi and hapu issues and interests, and feel there is opportunity to improve its effectiveness (TPK 2002: 34).

Identifying barriers is not the same as removing them, though certainly a step in the right direction. And while TPK does actively seek the viewpoints of Maori stakeholders when reviewing particular policy programs or the performance of government institutions, this is a post facto involvement in policy making which is too far removed from the creation of true opportunities to impact on decision-making processes. These reviews are of course not the only way for Maori citizens to attempt to influence decision-making processes, but as review processes go, they seem an inadequate source of opportunity creation.

A second type of data that can provide answers to the question of whether there are occasions for individuals to partake in debates, are letters to the editor from the two newspapers surveyed in the data collection period. The West Australian had one full spread of such letters every single day (however, often with a few ads on the same page), and the Dominion Post published between ½-1 page of them per day. Knowing they did not print everything they received, this indicates a heavy input of opinions from individual readers. A total of 956 such letters were counted in The West Australian between February 9th and April 8th 2004, Mondays through Saturdays. According to their own 'mailbag' notice every Saturday, they received between 632 and 967 letters per week in the said period, publishing between 105-128 of them every week. In The Dominion Post, there were 265 letters in total between May 18th and June 17th 2004, Mondays through Saturdays. Here no figures were published on the numbers of letters received, but it was considerably less than The West, as all names of contributors whose letters were *not* published were included a couple of times every week, sometimes even with an explanation for why their letters had not been published (mostly that they were too long).

These letters thematised every conceivable topic, but focus will here be on topics relating to this study. Starting with the West Australian, it is noteworthy that the

story on World Vision referred to above only sparked 2 published letters to the editor, both appearing on March 8th. Otherwise, topics relevant for this study included: public vs. private schools: 7, the school system generally: 32, immigrants and refugees: 15, race relations: 29, Aboriginal issues: 7. Generally speaking, the tone of the letters in the West Australian was fairly conservative, and topics such as breast-feeding in public, same sex marriages, and women ‘inviting’ to rape through their way of dressing were all topics that spurred a spate of letters. The conservative impression was reinforced by the inclusion of ‘Today’s Text’ every day with a Bible quote from the Bible society. Also remarkable was the fact that the power crisis in the state, which caused a ban on using air conditioners in private homes for a short period, sparked no less than 113 letters to the editor during the exact same period that race relations in Sydney escalated into ‘the Redfern riots’, which only resulted in 6 published letters to the editor.

The Dominion Post published considerably fewer letters on topics relevant to this study, however with more on Maori issues (14 counted in total), and a topic which is remarkable for its near total absence in Western Australia, namely environmental issues, which was the topic of no less than 38 letters published in the Dominion during the survey period. Another remarkable topic was the debate about New Zealand’s involvement in WWII, including the role of the Maori Battalion.

While more quantitative data may certainly be generated from this material, and a much more detailed analysis could be made, focus remains on qualitative data, here in the form of interview statements principally by government officials about how they perceive occasions for individuals to partake in debates. It should be noted that this was not a question they were asked directly, due to the open-ended approach to the interview process. Therefore, any ensuing quotes will be included by virtue of the fact that they were labelled as belonging to the coding category of ‘influence on political decision-making’ during the coding process.

The Statement of Commitment between ATSIC and the WA State Government, whilst being an agreement between the Government and an *organisation* to be included in decision-making processes, can also be regarded as a starting point for creating opportunities for individual involvement. Several government officials mentioned this agreement, and while some saw it as a positive step in recognition that ‘the Government can’t do it alone’ (JC), another respondent said ‘to me, it is actually the height of

hypocrisy' (IS). Hypocritical or not, The Statement of Commitment does send a signal to government officials about consultation procedures. JC's following comment is particularly interesting, because it exactly bridges the gap to include individual involvement in decision-making. If this can be taken as a general indication of what is considered 'politically sensible', it certainly bodes well for creating opportunities for individual stakeholders to be involved in debates¹⁰⁵.

JC: Ok, initially, and that is significant for this Government, initially they might use ATSIC, but as they get comfortable with this concept and as time goes on, they'll open the door. I am often going out and saying to people 'use ATSIC, we *have* to use ATSIC', but if there are other key stakeholders in your community that are Indigenous and have a part in this, involve them. It is like *anything* you do. If you are doing a drug strategy, you have a policy officer who would say 'who are the stakeholders within that?'... It is politically sensible anyway.

JC particularly mentioned two Aboriginal groups it would often be sensible to involve in consultations, namely women and youth, because these were poorly represented within the existing ATSIC structure. She also spoke about her 'vision' for good policy-development practice: to start by asking the communities to identify needs and wishes, then let the policy officers develop suggestions, and finally decide on implementation in conjunction with the community. Yet, she also said that in practice, such development processes were often so prolonged that communities despaired of having their viewpoints heard, and often could not recognise the policies they eventuated in – or might even be affected by policies developed in consultation with other Aboriginal communities with wishes and needs different from their own. Our following exchange attests both to the existence of opportunities for involvement, but also to the limitations imposed on it, for example from the passing of time and interventions 'from Mars'.

H: Ok, but that would actually be an instance of a policy developed from...

JC: From bottom up. / **H:** Yeah / **JC:** Sometimes it has happened, I've been in policy for quite a while. Policy documents that were collected two years ago, that the community doesn't know is actually being used to develop that program, so it is all about the community not knowing that communication. So a lot of the stuff Government develops has – some of it comes from Mars, some *does* come from old reports.

¹⁰⁵ Obviously, JC is only one informant working within a large bureaucratic complex. It is, however, significant that she is placed within the Public Policy Unit, which has as its explicit focus explaining policies to affected communities and involving them in decision-making. Furthermore, she is in one perspective the 'token Aboriginal' within this unit, which was the reason why I was referred to her as informant. This also means, however, that her colleagues are likely to ask her advice about how to engage with Aboriginal communities. This gatekeeper function lends weight to any conclusions based on her statements.

The decision to abolish ATSIC announced by Prime Minister John Howard in April 2004 was not entirely an intervention from Mars, as it hardly was a big surprise to anyone that a change would come. However, many people involved in Aboriginal affairs on a daily basis undoubtedly felt that Mr. Howard was indeed living on a different planet; one interviewee referred to him as ‘our crackpot Prime Minister’. The tone at ATSIC’s WA office during my visit on May 7th was much more calm, and regarding the involvement of Aboriginal communities in decision-making one respondent merely expressed the opinion that ‘unless the Aboriginal community is clearly in the middle of the decision-making processes, then the sustainability of outcomes will only last as long as someone somewhere within the system is prepared to run with it’ (GP).

Turning attention to the potential for Maori involvement in decision-making processes in New Zealand, the picture looks much the same. Here I spoke to ME, who had previously worked in various government departments and had had functions similar to those of JC quoted above. Namely, among other things, ‘going out into communities, meeting them, listening to them, and then bringing their views back’ (ME). While she stated that ‘the Government is reasonably consultative on most things’, she also added that ‘otherwise they will be out as soon as the ballot box gets out’, which is a pragmatic rather than an idealistic reason for conducting consultations. However, she also put forward the view that besides mere political calculation, there also was a more fundamental element of justice involved in including Maori people in decision-making processes, in the sense that it is also about remedying historical wrongs.

ME: [...] Governments on the whole have listened quite carefully, in my experience, to the Maori voice. [...] I suppose the historical stuff about the grievances created by previous Governments and then *the acceptance* that there had been grievance created, has provided Maori with a stronger impetus to confront the Government with decisions that they haven’t liked or with policy proposals they don’t – and it has actually meant that rather than an uneven relationship, the relationship has become much more – I don’t know how to describe it, because I don’t want to overstate it. It has at least provided a platform for Maori to raise their hand and to create debate. And it has given Maori confidence to do so.

One of the areas in which Maori communities have recently become more involved is in local government, especially with the RMA (Regional Management Act) provisions, where it is a requirement that Maori interests be heard before making decisions on the management of natural resources. Both a Pakeha city councillor from Wellington and a Maori tribal representative on the same council were interviewed about their

experiences with this type of cooperation. While the Maori woman MP stated that, ‘What I have discovered is that there is far too much decision-making that is made in complete isolation of the people concerned. It needs to be the other way around’, she was also rather positive about the experiences this cooperation has brought with it. The Pakeha councillor CL spoke about how the Wellington city council was preempting an OTS decision on rights to a particular area of land currently under administration by the council, but under claim by the Ngati Toa tribe. CL: ‘[...] It will inevitably have to be given back, and we are therefore in the process of forming a joint administration for it. [...] We are anticipating what will happen. And in some respects we are encouraging that outcome to happen’. In this particular case, then, the city council was actually working ahead of decisions by the Ministry of Justice and including the tribal representatives at the earliest possible opportunity, which CL presented both as a logical and positive step. However, he also commented that in some instances the *prescriptive* nature of the local government act to involve stakeholders and have consultations on many types of decisions was sometimes a less attractive process. CL: ‘It gives you some feedback, but it is not – most of the people who come have their own little issues that they want to pursue, and most of the time it is not very practical. It brings out all the nutters and the lunatics that come from miles around, but we have to do it, so we do it. It is democracy, isn’t it?!’.

All in all, interview data from both WA and NZ was fairly similar in stressing the need for consultation with affected communities, although the success of such consultations hinged on various factors such as timing and delimiting the proper segments to consult with. But in both settings there is evidence of occasions for individuals to participate in debates about policy development. The brief comments on the letters to the editors of the two newspapers surveyed indicate that in the Western Australian case it was mostly non-Aboriginal readers of a fairly conservative bend who had their voices heard via this channel. This differed from the general impression of letters published in *The Dominion Post*.

Another difference between the two settings was found in the various government brochures analysed above, which point to different opportunity regimes, in the sense that the material from WA were guidelines for best future conduct and the material from NZ were evaluations of past conduct. This may be due to the nature of the

material obtained rather than due to any significant differences in approach. Certainly, interview data from both settings resemble each other to a great extent on this point. From a temporal perspective, the idea of distributing a set of guidelines to government employees on how to conduct consultation makes more sense and seems more appealing than letting the same type of employees work under the awareness of a potential review by TPK, which in any case will occur after the damage has been done, so to speak. In other words, giving people opportunities to debate seems a more fruitful approach than merely pointing out failures in providing these opportunities. However, interview data suggests that consultations are at least to some extent an established practice in both settings, and therefore the conclusion to the question heading this section would be that there are indeed occasions for individuals to partake in debates and make their influence felt, even though sometimes being overrun by decisions from Mars cannot be ruled out in either setting.

12.2 Interest in following debates

As discussed in the introduction to this chapter on opportunity, one of the underlying questions is whether there is time for consumption of information and being influenced by alternative viewpoints. The nature of the data does not allow a direct answer to this question. However, indirect measures are available. The question is closely connected to access, and has therefore already been implicitly addressed in chapter 11. It will, however, also be addressed more specifically, using qualitative data from interviews within the media sphere. Time is a quantitative phenomenon measurable by the clock, but as an alternative qualitative measure of whether the collectivity shows interest in following debates, the present subsection gives examples of interview data from journalists and others about feedback on news stories and how stories are able to influence decision-making and debate in society.

Direct feedback and response to journalists in relation to stories they have written is an indication that their stories are being heard and have made some kind of impact. Therefore, comments from journalists on this can be used in assessing whether the collectivity follows debates - the collectivity in this case mostly being the Indigenous community. One of the most succinct statements about this came from CW.

Because she was the only reporter on Aboriginal affairs at *The West* at the time of my visit, she was probably also one of the most knowledgeable about current Aboriginal relations with the media.

CW: [...] that's something I found particularly with Aboriginal affairs, that often sometimes when I had written what I thought was a significant story, and it would be run back in the newspaper, it might be on page 35 or 36 or something¹⁰⁶, and it would be always surprising to me how many Aboriginal people had read it. And I'd see them a couple of weeks later, and they'd say 'oh, I read that thing you wrote'. You know, as a community, they are very good at keeping up with their own issues. [...] I've been surprised; particularly, you know, people you might not have thought were regular readers of the newspaper, and they *do* buy the paper and read it.

This one quote does not disprove the point discussed previously under *access* that many Aboriginal people in WA live with different socio-economic disadvantages compared to the rest of the population, and therefore may not have access to the same level of information as most other citizens. But even with this limitation, CW's point underlines the fact that the Aboriginal community to some extent does follow debates; and what the true extent of their interest in this is, will never be apparent before socio-economic barriers such as the ability to read and write and have money to buy the paper have been completely removed. The following quote by SM supports the impression that a certain level of interest does exist.

SM: [...] Indigenous communities have over the past 20 years got highly skilled at communicating with the media [...] And the big organisations have become quite skillful at it, and even some of the smaller regional ones now understand the importance of inviting media to have a look at projects, making press statements, getting your story across, all of these things. Having relationships with journalists, so that they can call them up and brief them on the background, those kinds of things. So that has certainly improved.

While SM primarily was interviewed in his capacity as a researcher in the field of media studies, and particularly Indigenous relations with the media, he also had a lot of practical experience from for example work in media training programs for Aboriginal organisations. In the analysis of access to debates, one theme was how a variety in form and content of the media output can improve the quality of debates. Radio Goolarri in Broome was mentioned as an example of an 'alternative' news outlet, and SM did in fact mention local Aboriginal radio stations as having made a great impact on the

¹⁰⁶ It should be noted that at least during the survey period, *The West Australian* was generally rather bulky, often running to anywhere between 80 pages (mostly Monday-Tuesday) and up to almost 500 (the weekend edition). It contained considerable amounts of advertisements (a rough estimate would be around 33%) and these often started on the very early pages of the paper.

availability of information. The existence of Radio Goolarri in itself may improve opportunities for Aboriginal people in the Kimberleys to be knowledgeable about debates, but another important prerequisite is that the radio station is in fact able to transmit newsworthy material. Again, questions of opportunity are closely tied in with access, in the sense that if the news outlet does not have access to sources, its readers/listeners will not be given the opportunity to get their own impression of a story.

One person I spoke with during a guided tour of Goolarri Media, was a woman editing an interview she had done with the Minister for Aboriginal Affairs, John Kobelke. She said that getting hold of Kobelke had not actually been that hard, he had responded rather quickly, and she also said that usually John Kobelke was not too hard to get hold of, although politicians generally were difficult. This evolved into a general discussion of who was available for interviews, where the special minister for the region as well as the local MP were mentioned as regular sources of information. So while other statements during the visit pointed towards a self-conception of being a marginalised radio station (which by many measures they certainly were), it also appeared that politicians were well aware of their existence, and to some extent made themselves available for interviews. In light of the previous discussion about Aboriginal access to media and the prevalent argument about a Perth-centric political scene in WA, this example makes apparent that opportunity to follow debates was not entirely beyond the grasp of the population in the Kimberleys. Nevertheless, distance is likely to have an impact on the amount and quality of information available, and very probably also on the interest of the collectivity in following debates.

However, proximity in itself is no guarantee for involvement, even for a local media like Wellington Indymedia in the geographically rather small New Zealand.

K: As far as the newssheets go, we have no idea what people think of them. [...] We run that in a similar sort of way as the newspaper, you know: send in your stories, contact us if there is anything you want, and there is a *very* low response rate as far as those are concerned. We have an amount of people that continually subscribe to us, so we post them out to them. And we do 300 every three weeks, which is not a huge amount.

Moving up from a small news outlet like Indymedia to a bigger one like The Dominion Post (which, incidentally, is also a 'local' Wellington paper, even though available nationwide), the picture changes slightly.

H: Do you get a lot of reactions from people?

GJ: Yeah, I get a lot of reactions from Pakeha. At the moment there is a lot of tension, or more tension than there has been about Maoridom's place in New Zealand society. So it has been – Don Brash, the National Party leader [...] he's kicked it all off by saying they shouldn't have a privileged place in New Zealand society. That has polarised a lot of people, and we have got a lot of feedback. Quite often it is leading our newspaper, these issues, for they are very important issues. And I think it is good that as a country we are trying to confront it.

As a reporter on Maori affairs, GJ was particularly responsible for political news within this field, which would undoubtedly lend his stories the attention of many readers. He specifically mentions Don Brash and his 'Oreo speech' – a speech which the leader of the national party had given in early March, but which still had reverberations in New Zealand at the time of my visit from mid-May to early July. This speech, as well as recent legislation on access to and ownership of the foreshore and seabed (with ensuing demonstrations and marches through New Zealand's cities) had all served to highlight Maori/Pakeha tensions prior to my visit. These are the types of stories GJ refers to as often leading their newspaper and being important issues – and judging from the sheer amount of stories, even months after the confrontations, one can be left in no doubt about the interest of the collectivity in following these debates.

Summing up on previous points, this example shows that access structures not only are important for creating opportunities for people to partake in debates. Stories and events on the political scene and elsewhere in society may themselves be important opportunity generators. The causal relationship may, however, also go in the opposite direction. The implication is that in some instances, news stories and opportunities created by the media to debate a certain issue can themselves generate political changes. Even if journalists and editors are not politically accountable by being up for election, there is no rejection of the fact that their work can create debate, even if it may be more monological than dialogical in character, in view of the nature of news editing and who is being allowed to express which opinions.

Data contains one particularly poignant example of this, and that is the story of how KB as editor of The Aboriginal Independent News along with his staff was able to bring the issue of homelessness and housing on the political agenda in WA.

KB: [...] In 2001 we published an edition with the headline '4000 Homeless'. And this was a figure that even shocked us, and we know how many homeless Aboriginal people there are. [...] So, we also were mentioned in State Parliament, the claims we were making about the housing situation in general. We

managed to get an article that we had written read into the record in the State Parliament. So you do it in little ways. You can never claim that you've challenged the entire society and that everyone has done a U-turn, but you can certainly influence the thinking of media and Government. And if you can get the ear of media and Government, even if it is challenging, well, it makes them consider. It makes them stop and pause. And perhaps go forward a little differently to what they were doing.

While KB was never elected to represent Aboriginal interests as an editor of The Aboriginal Independent News, it appears he did in fact acquire a somewhat representative role. He told about his visit to the Ministry of Housing, where he was invited as a spokesperson for Aboriginal interests, despite his non-Aboriginal background. As is evident from the rest of the analysis, access, opportunity, and ability structures may not necessarily be something that exists only within the established political institutions, and may in fact even be *created* via extra-political channels. – As in this case, where KB was given a unique opportunity to make the politicians 'stop and pause and perhaps go forward a little differently to what they were doing'.

KB: [...] When we started challenging them on the issue of housing, I was actually invited up to the Minister for Housing's office, and when I got there, the head of Homes West was there as well. And so I was invited there to discuss the issues. And the Minister actually complained to me and said 'you only bring the Aboriginal viewpoint'. And I looked at him and said 'well, we are an Aboriginal newspaper, Minister, what do you expect us to do?'. So the idea of the Aboriginal community putting their *own* point of view through an independent voice was something *totally* alien to them, and that was only in 1997¹⁰⁷.

The fact that many Aboriginal people are homeless in WA and that there is a sore need for cheap public housing is a well-known but little discussed fact – at least by the media. Being a 'tiny' newspaper as KB called it (he cited a circulation figure of 5000), it was actually something of an achievement bringing such an issue to the forefront of public debate. Other public debates have been raging in WA media over the years, some of them certainly impacting on political decision-making. Two particular issues in relation to Aboriginal interests were still high on people's minds at the time of my visit. One was the closure of the Swan Valley Community, which was a very contentious issue involving allegations of sexual abuse, and therefore so controversial that few really wanted to discuss it, and I consider it an issue best left for the courts. The other, however, was the introduction of the child curfew for children below the age of 16 after dark in the Perth district of Northbridge.

¹⁰⁷ The Aboriginal Independent News was published between 1997 and 2001.

Judging from interview statements, this was once again one of those instances where politics and media tend to merge into a symbiotic relationship, and clear decision-making structures are hard to identify. The democratic potential for such cases is certainly up for debate, but in terms of creating *opportunity* to influence decision-making (and therefore presumably for interest in following debates), doors do seem wide open. Several respondents said that in these cases, the Government had circumvented its obligation to consult with the (Aboriginal) community about such decisions. However, while the views of the Aboriginal community were perhaps not sought to the same extent as usual or required, politicians were undoubtedly influenced by another series of opinionated expressions, namely the media debate that had been leading up to the decisions. In fact, it appears that while influenced by the media debate, politicians were also actively using the media to practice politics.

One angle on this story came from an informal conversation with KM, journalist and former public relations worker at the Department of Indigenous Affairs. She said that the closure of the Swan Valley Community and the introduction of the curfew in Northbridge were political decisions that were actually announced via the media. On the day she heard in the news about the closing of the Swan Valley Community, she had called some of her contacts at DIA and asked them if they had known about this coming up. They told her they had not been consulted at all. So according to KM, it was a political decision rather than the result of policy-making and consultation - she called it an instance of the Government playing the *executive* government rather than deliberative government. Apart from that, she said that it was very much a part of the current Government's profile, or the image it wanted to present of itself, that it was *consulting* citizens and taking part in processes whereby citizens will have a say on policy. She also said that ATSIC had come out and supported the introduction of the curfew in Northbridge post facto, despite the Government leadership style in this case. CW from The West commented on the same case, supporting KM's comments.

CW: [...] you might be aware that ATSIC has got a Statement of Commitment with the State Government here. So they are literally at the table, making decisions with Government on most Indigenous issues. The only time recently that that has broken down was the Premier's decision on the child curfew for Northbridge. And as much as anyone in Government might tell you that they did consult on that, they really didn't. And I think it was *purely* a political decision, to sort of, you know, get the populist vote and make most of WA believe that he is coming down tough on juveniles playing up in Northbridge.

CW used an interesting expression about the way in which the curfew had been introduced politically; ‘that one just went through the keeper’. KB was generally more sceptical about the level of consultation between the Government and Aboriginal interest organisations than CW was, and also he singled out the case of the Northbridge curfew as an example of a total lack of opportunity for the relevant organisations to voice their opinion. KB: ‘And they claimed that they’d talked and consulted, and *I* know of no one they’d consulted with. And I talked to all of the Aboriginal interest groups around Northbridge, and they *all* told me they were not consulted’. But while the usual opportunity structures for Aboriginal interest groups may have been circumvented in this case, one could also view this example as a strong version of the *vox populis* taking the opportunity to have its opinion heard. Once again, the democratic potential may certainly be debated, but despite the fact that CW’s frustrations over her readership’s lack of sensibility may be heartfelt¹⁰⁸, there is no question about the fact that the media was a contributing factor in introducing this policy.

H: So you would say that that particular case has done damage?

CW: I think among the Aboriginal community it has. Among the non-Aboriginal community there is overwhelming support for the child curfew. Which is disappointing to me, because I thought people would be able to look at it a bit more critically than that. But people do really just see it in simple terms, and they think that now when they walk around in Northbridge on Saturday night, now they think it is much safer because there is this curfew out there.

As debated both in chapter 11 on access, and more specifically in subsection 12.1 on occasions for participation in debates, consultation procedures may in themselves provide the necessary structure for participation in debates, but the real test of their worth is whether these opportunities are in fact being utilised by the general population. Several respondents in WA characterised the Government as being big on the *rhetoric* of consultation, while circumventing opportunities for the population to generate input whenever convenient for the Government. SM took a very fundamental (almost fundamentalist!) approach to this question, arguing that it ought to be *negotiation* rather than merely consultation when the Government engaged with Aboriginal Australians. His view was seconded in a different context by MP from New Zealand.

¹⁰⁸ Subsequent to our meeting she sent me a series of articles to my home address in which she and a colleague had written about the history of the curfew in WA and how in the 1960s Aboriginals were disallowed on the streets of Perth city after dark.

SM: [...] Unless they are recognised as formally free and autonomous and self-governing peoples with a right to self-determination, then they can only be consulted by Government as a poor racial minority, or as Indigenous people with a special 'cultural' place. None of those statuses is adequate for a people, or numerous peoples, who were free and self-governing at the time of colonisation. I think that is the fundamental problem of Australia still, and there is no getting around continuing problems, because people are positioned as massive public welfare recipients, rather than as peoples with rights and sovereign rights. [...] Aboriginal people are seen to be simply *one other party*. As if you've got mining, agriculture, and pastoralism, Government, and Aboriginal people. No, those aren't all equal parties at all.

MP: [...] So we are sort of getting to that level now where there is recognition that there are – that one size doesn't fit all, and that there is a real *need* – [...] that we need to be included. And in decision-making positions, *not* just as an interest group in the community that should be consulted with along with 'Friends of the [xx]'. Because up until recently that has been how the tangata whenua have been treated: just as an interest group. And that has been a real issue for us.

These statements show a remarkable similarity of viewpoint, despite the fact that the former person is an Australian academic speaking about a lack of resolution with Australia's colonial past as barring Aboriginal people from the opportunity to be heard, whereas the latter is a Maori representative from New Zealand speaking about actual experiences of engagement.

On a different note, KB pointed to an alternative way for securing oneself an opportunity to voice an uncensored opinion. But even if this does indeed create some leeway for what can (and particularly *cannot*) be said, this is still a marginal example in view of the fact that very few members of the public will have access to such an opportunity.

KB: [...] – if you read the editorials in The Aboriginal Independent Newspaper, we often put stuff in the editorial that we couldn't write a story on. Editorial is just opinion, or - supposedly. So we managed to cover some issue that we couldn't cover through *stories*, because they would have been defamatory. So it is broadened a little, you take out personal names, and you talk about the issue. And that was the flavour of our editorial almost every fortnight.

Moving on to data from New Zealand, and particularly data from the media sphere evolving around the issue of opportunity for people to participate in and follow debates, comments were much less frequent on this issue than in WA. Again, this seems to be a result of a much more taken for granted involvement of Maori in debates both inside and outside the media. As GJ points out below, there is a kind of precedence and expectation that Maori will be involved in decision-making.

GJ: [...] one thing you should look at is the foreshore and seabed issue. Last August and September the Government went on the road with their ideas and had 12 hui. [...] they could easily have said 'no we have made our decision' and not bothered. But there are a kind of precedence and expectations that Maori will have a say.

While it should be remembered that this is a statement by a Pakeha man working for a mainstream newspaper, it is interesting to note that he cites *expectations* as being an influential factor here. This corresponds exactly with a statement by a Maori woman from NZEI, TH: '[...] And I think that Maori participate because they have an *expectation*'. A more cautiously optimistic view was expressed by CL, who both worked as host on a morning radio show and had experience with political institutions for example via his involvement in the Wellington city council.

CL: In terms of the inclusion of the minorities – and I guess Maori being the most prominent – it goes up and down. There are times when we feel, most of us who are in it or involved in it, we feel optimistic that we are beginning to really break the ground. And then every now and again it becomes inevitably a sort of hostage to politics. You will have seen in recent times, I guess, how easy it is too to mislead and to generate political support. The fact of being a minority and having interests which are contestable in a legal sense means you are a sitting target for political adventurers. [...] there will always be and always have been politicians in this country who wish to make political capital out of what the majority will see as a zero sum game. In other words, them giving up something for the minority.

Some of the examples cited above could very well fit into CL's category of misleading and creating political support. Yet, while issues of minority inclusion, and specifically the inclusion of Aboriginal and Maori interests, may be a sitting target for political adventurers, this also means that a continual debate about such issues is created and sustained – in effect creating opportunities for expression. Some politicians may present the issue as a zero sum game, but even such an approach would contribute to a public debate. The fact that people are debating interests will not open a magic world in which all minority interests are being accommodated. However, opportunities for having such debates is certainly a prerequisite for beginning to find out what this magic world could or should allow room for. So in a rather bizarre way, the fact that the issue of Indigenous inclusion is such a hot potato in both WA and NZ contributes to creating opportunities for debate.

Concluding overall on the question of opportunity to participate in debates, both differences and similarities between the two settings have emerged in the analysis in chapter 12. There are some differences in data from the mediasphere on this issue (both in the letters to the editor and in interview statements by journalists about feedback on stories), but these differences are generally more related to scope than content; once again suggesting the conclusion that the most pronounced difference between the two

settings in this respect is the narrowness of the Western Australian mediasphere. A remarkable difference in data from the two settings was, on the other hand, found in the analysis of political review processes as described through the analysis of various government publications. Here the post facto reviews by TPK appear to be a decidedly reactive approach to citizen inclusion, compared with the proactive approach taken in Western Australia through the Consulting Citizens guides. Of course, this difference may be due to a difference in the type of data obtained, but dismissing the Consulting Citizens guides as a contingency that randomly coincided with the data collection phase is not a convincing explanation¹⁰⁹. It is quite remarkable, however, that interview data about consultation practices primarily from government employees in both settings resemble each other to a very great extent. A tentative conclusion on this note would be that maybe government employees are simply taking a commonsense approach to the question of consultation. Such a conclusion would be supported by JC's comments on what is 'politically sensible' or CL's story about preempting a decision by the Office of Treaty Settlements on a Ngati Toa claim to a particular area of land currently under administration by the Wellington city council.

¹⁰⁹ The Consulting Citizens guides were published between 2002 and 2004, and the TPK reviews in question are from 1998-2002.

Chapter 13: Ability

As accounted for in the analytic model developed in chapter 7, there are two important theoretical parts to ability in connection with debates: ability to *express* and ability to *listen to* viewpoints. As was the case in the analysis of *access*, these two aspects of ability emphasise the dialogic character of the interaction, and therefore they will be analysed jointly in this chapter. But while they analytically complement one another, it would be wrong to assume that they empirical co-occur. Table 7.1 suggests that the empirical evidence for ability to express one's point of view can be found in such indicators as 'Resource and skills requirements – for example educational, ethnic and family background, questions of legitimacy and representation etc'. This suggests a two-pronged focus: first on 'the luggage' of the individual expressing an interest, and secondly on the dynamics of representation and legitimacy as something being conferred on the individual speaking on behalf of the collectivity, and as a necessary precondition for authoritative access to the arenas for debate and decision-making. Together these two focuses would answer the analytic question of 'Who participates in the debates?', also from table 7.1. The relation of conferring legitimacy has been indicated by the arrow and the sceptre between the collectivity and the individual in the 'ability model' below, whereas 'the luggage' of the individual is symbolised by the suitcase.

The theoretical twin to this relation of ability to express, is the ability to listen to different viewpoints, which would foster the analytic question 'Which abilities do various institutions attempt to nurture in the broader public to further its 'listening capabilities'? Empirically, the evidence to answer this question may primarily be sought in the 'The role of the educational system and different forms of media in exposing people to various life experiences' - indicated by the two pictures at the bottom of the model. In other words, this suggests a focus on media and education systems as senders or transmitters of values and ideals. I.e. these mediating arenas have an educational function in conferring upon the collectivity a certain repertoire of values and ideals which may become the basis for forming preferences and interests, and foster the ability to listen to preferences diverging from one's own. This coheres with Addis' notion that

the educational sphere and the media are very important shaping factors for societal deliberation.

Illustrating these analytic ideas as a variation of the basic deliberative model, the following ‘ability model’ can be sketched on the basis of these introductory considerations.

ABILITY MODEL



This model indicates the following areas for analysis:

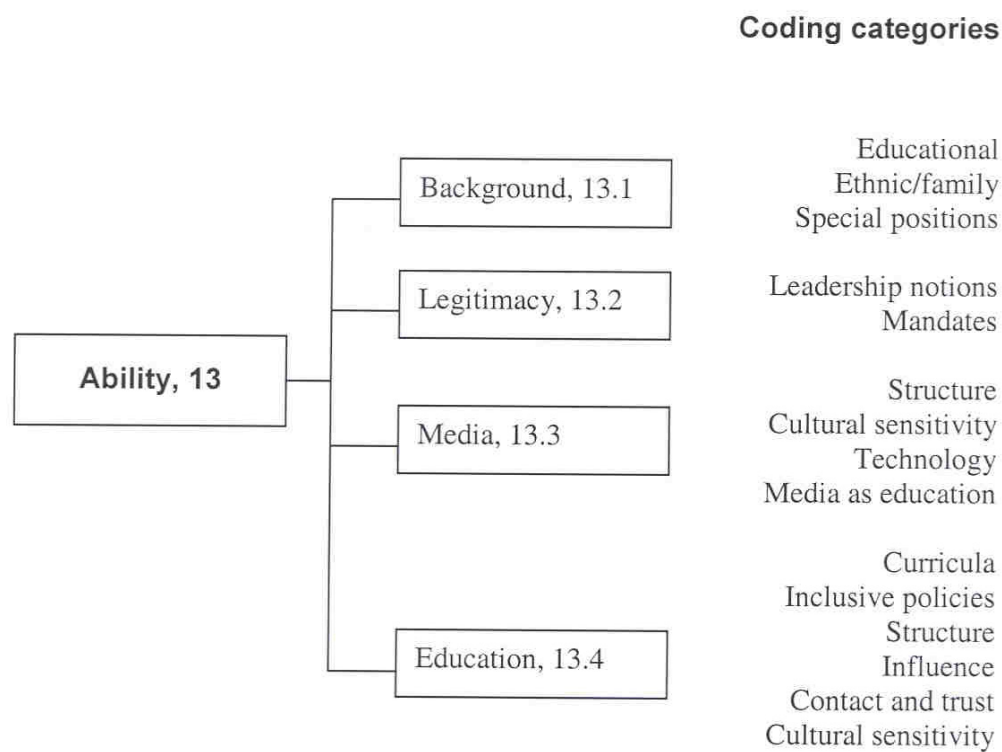
13.1 Educational, ethnic, and family background (individual ‘luggage’)

13.2 Legitimacy, representation, and authority

13.3 The role of mainstream and alternative media

13.4 The role of the educational system

As was the case in chapters 11 and 12, this chapter will be subdivided according to the areas for analysis, and data from various coding categories will be employed to answer the analytic questions raised by the theoretical requirement of ability to partake in debates. An overview of these coding categories can be obtained through a reproduction of the last section of the diagram from the introduction to Part III¹¹⁰.



¹¹⁰ The majority of these categories spring from open coding (see chapter 9) of interview data. Data from the sphere of education has been supplemented with written sources in the form of curricula and policy documents. These sources have, however, also been analysed according to the occurrence of prevalent themes or codes.

13.1 Educational, ethnic, and family background

The analysis of educational, ethnic, and family background as impacting on individual ability to partake in debates will be based on three coding categories, namely statements about how the ‘educational background’ of representatives may affect ability, similar statements about effects of ‘ethnic/family background’ (here analysed jointly, as they are partly overlapping categories), and finally the notion of ‘special positions’. This latter notion is closely connected to the category of ethnic background, as ideas about ‘special positions’ or ‘reserved positions’ within the government systems under investigation were based on ethnic criteria. All three coding categories show significant overlap, as several comments about positions for Aboriginal or Maori employees in the governance sector was made by such employees themselves, often simultaneously reflecting on their own ethnic and/or family background and showing a high degree of personal involvement in issues. Consequently, categories tend to merge in the following, but focus remains sharply on the question of whether and how educational, ethnic, and family background impact on individual ability to partake in deliberation.

In the discussion of Habermas’ notion of the masterless dialogue, it was argued that his model puts rather high requirements on the rationality of man, in the sense that the ability to partake in debates and introduce and problematise claims is not something one can in reality presuppose everybody to possess. Indeed, data suggests that several respondents felt that the educational background of representatives mattered for the outcome when arguing a case on behalf of a group of people or collectivity. This came as no surprise, because of initial scepticism about de facto debates being as open as Habermas suggests they should be. What was a surprise, however, was the great emphasis many respondents put on the ethnic and family background of people speaking on behalf of a group. While some seemed to suggest that like is best represented by like, there were also respondents who saw this as a problematic notion. Either way, many respondents touched upon the issue, often directly commenting on how they viewed their own position and family background either as government employees or group representatives within the governance system.

The idea that the educational background and formal qualifications of discussants matters for the outcome is rather self-evident, and a few remarks will serve to show how this viewpoint was expressed in data. One of the more interesting

comments on this, is the following statement by MP representing the Ngati Toa tribe in New Zealand.

MP: [...] I mean, there are people with enormous talent and skills who will undoubtedly take up those kinds of leadership roles anyway, but often you find with those sorts of people that they have difficulty in uniting people. Because even with the best of intentions they are regarded with suspicion by some *because* of their skills, or *because* of their university education, or for whatever reason [...]

This was one way in which education might in fact adversely affect people's ability to debate and represent a certain viewpoint. A quite different take on how education in a broad sense may be conducive to a good discussion environment is expressed in the following quote, also by MP, about how her tribe is trying to educate city councillors and staff about the Treaty of Waitangi and what it means to Maori people.

MP: [...] And now we are looking at taking the relationship a step further and when there are new councillors and staff and employees, for instance, who come on board, they should all be educated in the Treaty and what it means. But not at an esoteric kind of academic level for the sake of meeting the requirements or whatever, but because this has a meaningful role to play in their everyday work. And it doesn't just apply to the Maori liaison officer, it applies to every single employee of the council.

Respondents from Western Australia also talked about how education in general, and teaching about Indigenous culture in particular, affects the quality of discussions between mainstream and Indigenous representatives. Most interviewees within the governance sector concurred that the educational sphere did contribute to the quality of outcomes. This was for example a topic in the second interview with IS. She gave as an example that the independent school system has long been aware of the need to educate school children about the country's Aboriginal past, whereas the public school system has only recently started doing so. However, she also stated that it is still a problem that it is mostly white people teaching Aboriginal culture; as she pointed out, most white schoolteachers would not have an Aboriginal person to ask for advice. IS felt that elders should be invited in to do the job. Furthermore, she pointed out that curriculum dictates do not necessarily lead to commitment. There is also the difficult question of appropriateness and striking the balance between needing to inform and yet be culturally sensitive and appropriate. IS said that for many white teachers it would probably be 'in the too hard basket'. On the other hand, this kind of teaching is important, IS felt, because it presents a chance to influence future generations.

In contrast with statements about how the ability to partake in debates is affected by the educational background of discussants, the second coding category of ‘ethnic and family background’ seems less self-evident. Nevertheless, the notion that this mattered for outcomes was continually put forward in both settings. JC, alluding to her surname, being part of the Nyoongar tribe and a relatively influential Aboriginal family from the Perth area, commented on how tribal networks and the tribal affiliation of government employees carries significance. As with WT, commenting on structural aspects of how SWALSC operates and obtains authority from the Nyoongar people, JC thus confirmed the view that families are the underlying authoritative structure within the Nyoongar tribe.

This view is supported by IS, another Aboriginal employee of the WA public service, in her following explanation about why she saw the present make-up of the ‘Aboriginal Material Committee’ as being less than culturally justified. This committee works to protect Aboriginal cultural material and is consulted in cases where for example public (and sometimes private) work such as road building is taking place on traditional Aboriginal land. As IS explained, setting up such a committee on the basis of European derived applications criteria might not fulfil Aboriginal notions of which viewpoints merited recognition.

IS: [...] One of our most knowledgeable elders in Perth didn’t get back on to the committee. He has been on that committee for probably about 30 years, and chairperson for a good many of those years, and in this process of having to apply and fill in a criteria, he didn’t have – A: he felt that he shouldn’t have to, because of his long service, and B: he didn’t get the time, because he is a very busy man. He is an elder. And the other thing is that some of the government department people were saying, ‘you don’t need to apply, you are respected for your years’. So he didn’t. Now those same people say ‘you can’t be on the committee, because you didn’t apply’. So he is left out, and he is one of our most senior respected Nyoongar men in Perth.

Family or ethnic affiliations, however, is not enough in itself according to IS; the qualifications also have to be present when appointing people to ‘special positions’. Working among other things with assessing the state’s Equal Employment Opportunity program, she said that ‘It is not good enough to just have *an* Aboriginal person in an identified position; they’ve actually got to have all sorts of skills and knowledge to go with that’. While she saw the Equal Opportunity Act as an important lever for getting more Aboriginal people into the public service sector, she was also concerned that the program might induce the general population to view Aboriginal government

employees with suspicion, because they would be seen as not really meriting their position.

Commenting on the colour of the WA public service in general and her own position as acting head of the Anti-Racism Committee in particular, LD, who was of immigrant background but identified herself as *Western* Australian to me, made the following statement.

LD: ...if you look at the WA public service, the higher you go the colour changes. So you get Indigenous people and ethnic people at the bottom. [...] Now, I think that there are barriers: for instance this could be my glass ceiling. There is no way that I could go further than this. It is very unlikely that anybody would appoint me to be the Director General of Premier and Cabinet. Just on the basis of my colour. I mightn't have the skills, but that's an issue – but even if I *had* the skills, it would be unthinkable that the Department of Premier and Cabinet was headed by a coloured woman.

Of course, the question is whether it is at all important to have Indigenous employees in government. Aboriginal respondents among the interviewed government employees had no doubt about this being an important issue. For example JC from the Public Policy Unit stated that

JC: [...] A lot of agencies, generally across the board, are really positive and try to obtain as many Aboriginal staff as possible. It is around that customer focus. Basically, a lot of mainstream officers working in government and other services, just don't understand when they are dealing with Indigenous issues. If you employ an Aboriginal person he can almost be the go-between between the community and that agency.

In other words, she thinks that a 'customer focus' entails that when dealing with Indigenous issues, an Aboriginal employee may be a better go-between between the community and the government agency than a non-Aboriginal person. WT, working for the Nyoongar organisation SWALSC, commented on this phenomenon of having 'token Aboriginals' in government positions, saying that their role in policy-making was insignificant.

WT: [...] When you see an Aboriginal staff member [in government], it is obvious that they are Aboriginal, because there might be one or two, so they *do* stand out. And it is more likely that they come in at the lowest level; so their role in policy-making I don't think is significant. I don't think that there are enough numbers, and certainly not enough numbers in middle management, to have a significant difference. ATSIC is different. But within government departments, I don't think there is a large Aboriginal component.

WT here concurs with LD's view above that there seems to be a glass ceiling for coloured employees within the government sector. In line with this, several respondents

(but notably only those of Aboriginal and immigrant background as well as WT, who was white but worked for an Aboriginal organisation) commented on their own role and the structural role of their unit within the WA Government system, often reflecting on how they might *personally* be able to influence decision-making and policies. Besides being the acting head of the Anti-Racism Committee, LD was also head of the Office of Multicultural Interests, and she commented on how she had changed the atmosphere of this unit into being something she could personally feel more accountable for.

LD: [...] We were into song and dance and God knows what – food and rubbish. I think those examples, they don't change structural issues. And in a way I think they reinforce stereotypes. You are good enough only to sing and dance and eat and whatever it is, but you are not good enough to be our Director General or you are not good enough to be whatever people are. So I have actually come in and changed the direction of this office quite radically, because I wouldn't have stayed here if it was going to be sing a song and dance and food, because it is not the kind of thing that I am interested in. And I feel it is insulting to every ethnic person to think that that is all we are good enough for.

Working within government, and especially working for a cause one believes in, requires some manoeuvral skills on the part of individual employees. LD was very concerned about how a possible change in the State Government from Labour to the Liberal Party at the next election might affect the work of her Anti-Racism Committee. Therefore she told about efforts to have it moved from the Office of Multicultural Interests to sort under the Equal Opportunity Commission, because the latter was a statutory body protected by legislation as opposed to the present location of the commission.

LD: And I am very scared that the Government may not come back. So that's why, rather cunningly, I have said we should locate this unit with the Equal Opportunity Commission so it is a statutory body that no Minister can influence. I said I am happy for my job to be sacrificed or my role in the program, because I think this program is bigger than individual people. So if we locate it in the Equal Opportunity Commission before the next election, they will not be able to change it.

This example of a very tactical approach to maintaining a particular policy of course falls miles short of being an instance of deliberative democracy. Protecting a policy initiative from change by transferring it into a statutory body falls foul of Habermas' premiss that everybody should be able to problematise any claim. However, this is a theoretical requirement. In reality, it seems unlikely that anybody would even possess the overview to be able to problematise any claim or policy. In the words of JC: 'The whole of government stuff is a beast. Trying to change people's thinking, trying to get

systems working, you are dealing with *huge* agencies’. Working with this beast is more easily said than done, and just referring to her personal work in the Public Policy Unit, where she was trying to integrate some of the policy initiatives affecting Aboriginal communities, she made the following comment. JC: ‘It is trying to cut out some of the processes. You know, they might meet on drugs, they might meet on DV [domestic violence], they might meet on child protection issues – let’s all meet. Have a regular meeting, once every month, and let’s have a whole lot of standing items, and we talk, and we integrate those discussions’.

Judging from some of JC’s comments, as well as those of others, one of the problems working within government sometimes seemed to be that one hand did not really know what the other was doing, and therefore the overview was lost, and with it the ability to question various policy initiatives. Therefore, it is possible to conclude on the basis of the above evidence from Western Australia that initial scepticism about everybody’s ability to introduce and problematise claims was well founded. First of all, an overview of policies is exceedingly hard to come by according to respondents, and secondly, factors such as the educational and family background appear to matter for the ability to interfere in debates and decision-making processes.

Likewise, respondents from New Zealand also had a great deal to say about the importance of having Maori staff in Government positions, as well as the significance accorded to the personal and family backgrounds of particular representatives. MP was quoted above to the effect that leadership skills acquired through for example university training might on the one hand be conducive to solving tasks, but on the other hand might also create tribal suspicion. Thus the educational background of individual representatives does not seem to have a uniformly positive influence on individual ability to partake in debates.

However, in concurrence with evidence from WA presented above, the idea of special positions for Maori, or at least having an increasing number of Maori employees in government, was accorded significance also in New Zealand. ME, a recently retired Maori woman who had held several different positions within the New Zealand public service during her many years of employment there, saw the entire public sector as having undergone significant developments in terms of the number of Maori employees.

ME: [...] Maoris are now found in all sorts of services. There are quite a few people that are employed specifically because they can reach out into Maori communities, and there are some Maori-specific jobs in the public service, but Maoris are found everywhere, really. So my last job was a corporate services job, no Maori relationship at all, but my previous jobs were focused on Maori issues.

This view was confirmed by BR, who spoke particularly about how Maori *women* had managed to secure themselves a position within the public service, both breaking away from traditional patriarchal patterns of Maori culture, and also asserting themselves as an influential ethnic group in the governance sector. BR: 'I think that there has been a move in New Zealand to open the public service to professional women, [...] and talented Maori women have got university qualifications [...] And often do both public service work and tribal work at the same time [...]'.

His reference to women both working in the public service and simultaneously taking part in tribal work fits exactly on somebody like ME. Not only did she tell about experiences working for various government institutions, but also about her work as a board member in her father's tribe. Undertaking work for two such different interest groups might pose some problems, and in the following she reflects on how to 'walk the line'.

ME: [...] the people that I have worked for, the Ministers that I have worked for, have always been very clear not to ask of me things that would put me off-side with Maori people. So I was never asked to do something that would compromise my own integrity and my ability to move in Maori circles [...]. So there are a lot of complexities about working as a Maori advisor in Government [...]. And what you've got to do to maintain your own protection and safety, and how you manage to walk the line without compromising the integrity of either your own tribal connections or the people who are your paymasters.

However, there is another side of the coin. In the following quote, MP lets out some of her frustration over being regarded as an *iwi* commissioner over and above a commissioner in the RMA commission of the city council. The RMA is the Resource Management Act under which it is a requirement to include a commissioner from one of the local *iwi* when hearing cases affecting the use of nature resources within the jurisdiction of the council.

MP: [...] I get really hoha [angry] for instance, when I act as a commissioner on these application hearings [...]. I am not there representing an *iwi*, I am not there representing *the* *iwi* or Maori, I am there as a commissioner in the same capacity as the other two. We all have equal responsibility, we all share the – we split up the jobs when it comes to writing the decision and, you know, going through and analysing the application against the act, and all that stuff.

While MP feels that the other commissioners are sometimes belittling her work, she also acknowledged that in certain cases, particularly with the creation of the four Maori seats in Parliament in 1865, special positions for Maori have actually gone a long way in terms of securing influence. In relation to her own tribe, Ngati Toa, she sees this mechanism as having had a great impact on the standing of the tribe. Notice, however, also how she puts great emphasis on her great grandfather being *asked* to stand by his people, rather than assuming the position for himself. This points towards some interesting notions in relation to leadership, which will be debated in section 13.2 of this chapter.

MP: [...] you will be aware that the four Maori seats were created back in 1867. We have tried to make use of those as an iwi throughout our history. Probably the most influential political figure for us - for all time I guess [...] was the successful election of my great grandfather Maui P[...] to the Western Maori electorate. He actually stood as an independent in 1911. So that's quite a good example of one way in which we have tried to influence the political system to our advantage. And he stood because he was asked to stand by his people, by his tribe, many tribes to which he belonged.

A rather different, but nevertheless telling example of Maori people occupying special positions due to tribal – as well as non-tribal - conferral of authority came from BR. This story is highly unlikely to be an expression of the general state of affairs between white employers and their Maori employees, but nevertheless it tells about making room for diverging cultural practices and acknowledging different sets of leadership structures at the same time. How tangi or mourning ceremonies can affect tribal participation in work was also an issue previously, and BR's story here shows how a state forest ranger ignores head office rules to accommodate the traditions of his work force. While it was argued in chapter 11 that issues of physical location and distance did not appear to play a great role in New Zealand, it appears here that there is in fact some room for regional variance in accommodating tribal traditions, and possibly greater leeway for doing so the further one is away from 'head office'.

BR: [...] forests were deliberately planted to create employment for Maori, and in the study of a forest that I undertook in 1999, that was one of the complaints from head office: they are always stopping work to go to tangi. Not only that, but the local ranger [...] employed his own kaumatua, a Maori elder, who was actually the gardener at the head quarters [...] but his *real* function was to speak at these tangi and other ceremonies, because that was the local ranger's commitment to integrating work and culture. Because the majority of his work force were Maori, he felt that it was important to ensure that they were able to continue their ceremonial obligations and that they could continue them *as employees* of the New Zealand Forest Service.

The view that there is room for regional variance in relation to tribal involvement in public work and decision-making was also confirmed by other respondents, who for example told about how the RMA legislation is implemented differently (and with different degrees of success) within different local councils. Examples also include what JH from Te Puni Kokiri said about a recent review she had undertaken of tribal involvement in local Health Boards in the Bay of Plenty area. In all instances, the ability to make authoritative decisions and recommendations seemed to be at least partly founded on the level of tribal or individual Maori involvement. Thus, concluding on the interview data from the New Zealand governance sector, it seems that they paid great attention to involving Maori both in the work of central government and local councils, and both in their capacity as Maori but also generally as possessing skills conducive to decision-making bodies.

Concluding on the question of how educational, ethnic, and family background impacts on ability levels in terms of participating in debates, respondents in general put surprisingly little emphasis on the educational background of individual representatives, and much more on their ethnic background. This focus on the ethnic background was played out in debates over ‘special positions’, which in both settings was not viewed as a uniformly positive phenomenon, but at least partially a necessity in terms of securing Indigenous involvement and contact with the governance sphere. While MP resented being regarded merely as an *iwi* commissioner, data also shows plenty of examples that individual respondents from the governance sphere had a high level of personal involvement in their work – in some cases possibly *qua* their ethnic affiliation.

13.2 Legitimacy, representation, and authority

Apart from regarding the educational, ethnic, and family backgrounds of individuals as affecting their ability to partake in debates, several respondents also spoke more broadly about issues of legitimacy and representation, which will here be presented as phenomena relating to the ability to partake in debates, in the sense that they can strengthen or weaken the position of individual participants in debates. The notions of legitimacy and representation will be analysed employing evidence from the coding category of ‘leadership notions’, whereas authority will be discussed particularly in relation to the idea of ‘mandates’, specifically as utilised by OTS in settlement

processes. These two notions are both captured in the ability model above through the arrow pointing from the collectivity to the individual, with the sceptre signifying a conferral of legitimacy and authority¹¹¹.

A very prevalent theme with respondents within the governance sphere was the issue of legitimacy and authorised leadership. This played a significant role as interview theme in Western Australia, and it was also high on the agenda with many respondents in New Zealand. Under the discussion of how structural issues affect Aboriginal access to the arenas for debate and decision-making, it was debated how a European derived notion of voting for representatives might have been part of the explanation for ATSIC's failure to assert itself as a legitimate institution among the Aboriginal citizens of Western Australia. Quoting CH, acting head of ATSIC's WA branch, on this question, will serve as a brief reminder of this viewpoint. CH: '[...] Not *one* of our traditional cultures has voting as the way of determining who has authority'.

In fact, nobody probably put the issue of leadership more succinctly in WA than CH did in her following comment: 'And if you don't recognise that somebody has authority, you are not gonna take whatever they say as leadership!'. Aboriginal culture was presented as very much relying on family structures when it came to assigning authority and leadership. WT, representing the Nyoongar organisation SWALSC, repeatedly stressed how her organisation based its structures on traditional notions of leadership within the tribe. When questioned more critically about this, bringing up the issue of gender and generational biases implicit in this heavy focus on deriving authority from male elders in the tribes, she more or less evaded it by putting forward the practical point that the male elders who are no longer working are also those tribal people with most time for this kind of work.

WT: It is mostly the older people who are involved. And they are involved because they are elders in the community, they are involved because they are no longer working, they can have the time to do this. Or if they work, they work for organisations where they can arrange time off. Our instructors are more likely to be the older members of the community.

H: How about gender differences then? Are you mostly...

WT: I think it is mostly male, but the women are pretty strident characters.

This reliance on tribal male elders in deriving authority may or may not be a fair organising principle. Considering that this is a non-governmental institution based on

¹¹¹ For a distinction between the two, see chapter 6 above, under the heading 'power'.

voluntary membership, arguably their way of organising themselves is entirely up to them. The example is primarily included because WT's point that you need to take account of traditional notions of leadership was in fact supported almost all the way around by people reflecting on what legitimacy entails within Indigenous cultures, both by respondents from WA and New Zealand. WT was adamant that authority was a bottom-up phenomenon within her organisation.

WT: It is a very demanding system, it is also a very expensive system in that the sheer cost of advertising, the mailouts, the community meetings – but it is a necessity in terms of the courts, to show that we are authorised. It is also a necessity in terms of us, to show that we are getting out to as many people as possible. And we really are getting our instructions from the community, and are keeping the community involved in the decision-making.

WT was preoccupied with legitimate representation not only in a legal sense, but also in terms of accommodating existing traditional Nyoongar notions of legitimacy, as well as appearing to have a legitimate case in confrontation with the wider public. In extension of this, CH and her co-director GP shared a few thoughts on how a more robust and enduring organisation would have to establish legitimacy for itself when talking about a possible future role for ATSIC (or its successor) in WA.

CH: [...] If people come back with an answer of 'we know there are these options but none of them really fit, so in this area we want to still stick with voting', then what comes out of that will actually have more authority than the elected structure that there currently is. Because that was imposed, not decided. So the next 12 months has the potential to really be quite exiting / **GP:** absolutely / **CH:** about determining how you get somebody to represent you. How you *invest* them with authority to speak for you. And there will be a range of models. And I think what comes out of it will need to be bureaucracies and governments that need to be open enough to accept that because this region has said 'we've got three main families here, we want representatives from those three main families to represent us' is worth as much from that community as this one over here that says 'all the other options are too hard, we'll still vote'. You need people to be able to recognise that those different models and all the permutations in between have the same standing and authority.

While respondents working for Aboriginal organisations were thus preoccupied with notions of legitimacy and leadership, some government employees also talked about this issue. JC's comments about 'responsible government' in the following are quite telling. This example is particularly interesting because she talks about how she in practice goes out to visit communities and tells them about what has happened with policy initiatives they have been consulted on. Thus she is in effect walking the line between what the Government considers a legitimate decision-making procedure and

trying to explain the outcome to those Aboriginal groups who have been consulted in the policy-making process.

JC: [...] a couple of people said ‘well, that’s not exactly what I said’. But it is a collective view too, not just individuals. And I say to people, ‘Well, that might not be your view, but Doris down the road, it was her view, so we are trying to mix’. And that is responsible government: you don’t just talk to individuals but to the collective about what is going to happen, because it is for the whole community.

While such a statement might seem pretty rudimentary in relation to theories of representation and legitimacy, there is no doubt that as a practical way of selling a policy initiative, referring to the view of ‘Doris down the road’ might go a long way towards accommodating different notions of legitimacy and overcoming possible problems in accepting political decisions.

In previous comments on the structural relationships existing in New Zealand between The Office of Treaty Settlements, The Waitangi Tribunal, and Maori tribes, it was debated how OTS requirements for tribal mandates had imposed a need for tribes to organise themselves in a way that could be recognised from a European legal perspective. In the words of the CEO for OTS,

AH: [...] At the heart of so many breaches of the past has been this issue of the Crown picking and choosing who it dealt with, or dealing with the wrong people, not ensuring they had a mandate. If we are to achieve settlements in a fair and durable way, we need to make sure that those we are in negotiation with do have robust mandates. But it is not for the Crown to prescribe how they get that mandate. We just need to be satisfied that there has been an open and transparent process and those negotiations can be held accountable. Now, how that works in each tribal situation is up to them. But I think if we didn’t have this in our process, any settlements that come out at the other end will be open to challenge down the track.

This statement echoes exactly the official explanation for why the requirement for mandated representatives has been introduced:

Mandating claimant representatives to negotiate is one of the most important stages in the Treaty settlement process. Many of the grievances of the past relate to arrangements made between Maori and the Crown, where the Crown dealt with people who did not have the authority to make agreements on behalf of the affected community. A strong mandate protects all the parties to the settlement process: the Crown, the mandated representatives and the claimant group that is represented (OTS 2002: 44).

The Crown is very clear about what it perceives to be a legitimate mandate. But while the Crown may know what it requires of a good leader, this may not be an issue so easily solved at tribal level. MP spoke at length about how Crown requirements for leadership might not correspond with tribal interest. While she acknowledged that

financial and negotiation skills were relevant in representing tribal interests in interaction with government agencies, she was not so sure these were adequate attributes in themselves, when it came to securing legitimate leadership within the tribe.

MP: [...] The sort of mandate they are requiring is not one that is at all consistent with the kind of mandate that would have been given to a traditional leader [...] The ability *whakakotahi te iwi*, bring the iwi together, bring the people together. It was the ability to show generosity – *manaakitanga*. Those are the main qualities a good leader would need. But these days, for Office of Treaty Settlement purposes, they are not interested in somebody who shows those sorts of leadership skills. They are interested in – the mandate has to reflect the people's trust in somebody who has good financial skills, or has good business skills, who has experience in the negotiating area, all those sorts of things. [...] And those people with all the relevant skills in a modern day context are not necessarily good leaders, but that is not to say that their contribution isn't valid or important.

MP presented this as a challenge or even a problem of leadership in contemporary Maori tribes. ME, who was also involved in tribal leadership, and had extensive experience working in government, was less pessimistic about the issue; however, still acknowledging that leadership requirements had changed.

ME: [...] So as far as tribal leadership goes – leadership has changed over the last 50 years, the style of leadership, the qualities. Because it is increasingly so that a leader has to be able to walk in both cultures. Whereas 50 years ago leaders were *firmly* based in Maori culture and may have had a reasonable education, or may not have. A European style of education wasn't critical. But today modern leaders are steeped in cultures of both their tribe and mainstream New Zealand.

Undoubtedly, there are many reasons for 'a European style' education becoming a critical leadership criteria. One of them certainly is the need for tribes to interact directly with government, and, in the case of the Treaty settlement processes, to receive assets and compensation for Treaty breaches. Respondents who were knowledgeable about traditional tribal leadership structures varied in their degree of criticism of the criteria imposed by the OTS system of mandated representatives. Most had a rather pragmatic response to it, one example of this being ME, who attached the following comment to the issue: 'Well, the Government would probably say it is for everybody's protection, the Government's protection, the public's protection, and the tribe's protection, and they would argue – I think – that there needs to be clarity, there needs to be accountability, and there needs to be responsibility. And I think that's why they have set the parameters, really'. When asked, the CEO for OTS responded in the following manner.

H: [...] That's part of what I have been debating with people as well, this need to - I guess, form some sort of recognisable entity that you can negotiate with. I thought that was an interesting perspective, you know, that tribes in some sense have to form a board or some other kind of organisation that is recognisable within a European legal system.

AH: Aarh, I don't buy into that too much! [...] I do hear that argument, and often it is from groups who aren't in negotiations or people in universities. You get down to claimant groups, they fully see the need for group governance entities, and they most certainly want it.

He may be right that the issue about traditional tribal leadership contra requirements for a modern tribal leader is a somewhat academic concern. At least, despite voicing some criticism about the imposed structure, respondents also had a pragmatic attitude towards meeting the OTS requirements. In fact, AH himself pinpointed the real challenge in the following statement, which sums up very well the concerns about modern tribal leadership expressed by MP and ME, both being tribal board members, as well as by the historian BR.

AH: [...] I think where the *challenge* is, is in ensuring that you have legal entities which are vehicles or tools for the tribe and don't become the embodiment of the tribe. I think that's where the tension is. [...] I think the less a tribe puts in law about their own customs the better; I think when you see a tribe trying to put too much of that stuff into the law, you are getting to the situation where the legal entity has stopped being a tool or a vehicle for tribe and is starting to become the embodiment.

In conclusion, it is evident from data from both settings that a certain level of tension exists in relation to issues of legitimacy and authority when Indigenous representatives are asked to engage with government. Cultural traditions might not be easily accommodated in consultation processes that also need to take account of what the mainstream government considers legitimate authority. No clearcut answer to how to solve this tension is readily available, but careful consideration is certainly needed. Possible solutions might spring from ideas expressed by CH and GP that tribes should be asked to clearly formulate legitimacy procedures, and from AH's point that it is advisable to distinguish between legal representation and tribal 'embodiment'.

13.3 The role of mainstream and alternative media

Casting a glance back at Part I, containing the theoretical considerations behind this project, it will be remembered that not only does Habermas speak about media as having a potential impact on the quality of deliberative debate in society, but Addis specifically recommends investigating this area as one of the spheres of deliberation in

any given society. The role of the media has already been analysed in connection with how governments/politicians attempt to spread information about their work and standpoints (chapter 11.2). It bears repetition that the overall heading for this chapter is *ability* to partake in debates, and therefore focus has been on how various institutions and phenomena contribute to strengthening people's ability to debate, both in terms of factual knowledge and in terms of legitimacy and authority. This section looks at connections between media and the collectivity in order to assess to what extent media contribute to strengthening the public's ability to debate. Many respondents from the media sphere directly or indirectly saw their work as contributing to general levels of knowledge in the population on various issues, and it could be argued that media in fact perform an educational role.

The full title for this subchapter could be 'the role of mainstream and alternative media in exposing the public to various life experiences', both because this exposure arguably contributes to an important educational process in society, and because, judging from interview statements, so-called 'mainstream' and 'alternative' media play rather different roles here. Making a broad classificatory distinction, I define 'mainstream' media as those parts of the media generally representing the views of the majority population, with relatively large circulation numbers and enjoying financial security. Conversely, 'alternative' media here refers to those parts of the media purporting to represent more marginalised viewpoints or groups (in this case often Indigenous groups), with smaller circulation figures and more precarious financial circumstances. Differences are defined as relating primarily to social, enunciatory, and economic power.

Readings by Mickler, Hartley and McKee, and others had already alerted me to the fact that there are huge differences between mainstream and Indigenous media in Australia (and New Zealand), so obtaining information on both types of media was a focal point from the outset. In both settings, I subscribed to one of the leading mainstream papers, in the former case for two months, in the latter for one (The West Australian was surveyed from February 9th to April 8th 2004, The Dominion Post from May 18th to June 17th). In addition, the/a journalist responsible for reporting on Aboriginal/Maori issues in those two papers was interviewed. These interviews were supplemented by various other available sources, for example interviews in both

settings with people involved in the local branch of the global Indymedia network (a group of independently working news outlets based on open publishing on the internet), as well as one or more representatives of an Indigenous media organisation (Goolarri Media Enterprises in Broome, WA, and a journalist from Mana News in Auckland, NZ). These and a few other sources contributed to paint a picture of the role of the media in facilitating exchange between mainstream and Indigenous groups in society as well as casting light on different forms of news outlets.

Four coding categories will be applied in this analysis, covering the main aspects of the material as relating to the question of whether and how the media contribute to the public's ability to follow and partake in democratic debates. Starting with the category of 'structures', some of the important differences between mainstream and alternative media as pointed out by respondents will be commented on. Understanding the underlying structures is a precondition for understanding the different statements from these informants. These comments will then form the backdrop to make sense of various statements relating to the category 'cultural sensitivity', which was an *in vivo* concept used by several respondents. This category contains respondents' various statements about how they try (or abstain from trying) to show 'proper awareness' of different cultural practices when reporting on culturally sensitive issues. Not surprisingly, many variations on what exactly 'proper awareness' is can be found in the data. Thirdly, the analysis focuses on 'use of technologies'. This may be a less self-evident category, but the reason for including it, is that it proved of importance to several respondents, both in terms of looking for alternative ways of getting viewpoints through, and because some respondents saw great educational potential in using primarily the internet. Last, but not least, considering the question of ability, comments directly linked with the educational potential of media will be included in the analysis.

The first category serves to establish that there is a structural difference between 'mainstream' and 'alternative' media. The categories of 'cultural sensitivity' and 'use of technologies' will then serve to shed light on whether this structural difference carries over into the educational potential of these types of media. Lastly, the more direct comments on the relationship between media and an enlightened or educated population rounds off the debate over whether the media does have a role to play in exposing people to various life experiences, thereby educating them to possibly be better

equipped to make statements and listen to those of others when participating in dialogic resolutions of differences in interest.

At the beginning of chapter 11.4, the homepage for The West Australian was quoted, stating among other figures that the weekend edition of this newspaper is read by more than 1 million people. Assuming that most of these readers are citizens of the state itself (after all, the newspaper is rather local in its focus, according to one respondent even ‘parochial’), this means that upwards of 62% of the state population reads (parts of) the same newspaper every weekend. This confirms Hartley and McKee’s assertion that The West has one of the highest penetration rates in the world¹¹². This fact makes a huge impact on the media scape in the state, as will be apparent in the following.

Starting at the opposite end of the mainstream/alternative media scale, four people in total involved with Perth Indymedia were interviewed in three different sessions¹¹³. This type of media outlet is perhaps best described as ‘glocal’, namely global in the sense that it is part of a worldwide loose network of media outlets based on a founding philosophy of open access publishing (that is, everybody can in principle upload stories to their local pages), and local in the sense that each local collective functions independently with its own editorial collective and focus on local news stories. An insight into how this form of media works can be found at <http://perth.indymedia.org>.

All four interviewees were involved in the editorial collective responsible for running the Perth homepage. MB explained that the international Indymedia community is well organised, and that they give each other mutual help, eg. via computer donations. Discussing issues of organisation, they stressed their consensus policy as being *the* most important trait of Perth Indymedia. No voting takes place on editorial questions, they will rather discuss until everybody agrees, and they operate on a full consensus. As everybody can in principle send in stories, everything is publishable, except stories violating the editorial code of anti-racism, -sexism and -defamy. Where the real editorial

¹¹² (Hartley and McKee 2000: 145). As evidence of The West’s importance for news coverage of Aboriginal affairs in the state, see also (Mickler 1992: 4).

¹¹³ MB and SO were interviewed jointly in an informal unrecorded session, whereas AB and BG both partook in formal recorded interviews. All respondents were sent copies of the transcripts/interview notes.

power comes in, is in deciding what goes on the front page. Both AB and BG explained this editorial policy in more detail.

AB: [...] Well, the thing is, we've got our editorial policy, and it is really well written...You are not allowed to have racist, homophobic, you know, posts that are discriminatory in *any* way. So, we'll let them go through, but...if it's menacing or spiteful or mean, or just downright racist, then we'll get rid of it. I mean, we'll hide it. We don't delete it – necessarily – we'll hide it...

Obviously, deciding what exactly is racist or homophobic enough to be either deleted, or at least hidden, may not be easy, when 100% consensus in the editorial collective is the only valid basis for a decision (it should be noted that editorial meetings are open to anybody interested in participating). But BG saw this as a plus for the collective: 'we need to have the arguments and we need to be able to have the conflict. As long as there is good communication, and we create spaces within the collective, and we create spaces for people outside of the collective to come in and discuss Indymedia, that works'. In other circumstances, however, the collective nature of editorial authority also created some problems, notably in obtaining access to sources and thereby facilitating the alternative version of news stories which is the driving argument behind running the global Indymedia. BG gave this telling example of how organisational structures impact directly on the quality of the information output.

BG: [...] You see, we can't get an official press pass, because we have no editor. We have none of the structure and the hierarchy within a media organisation we need to get an official press pass. So when I go up to Parliament House, and they say 'where is your press pass?', and I say 'well, I can't get one' and they say 'well, sorry you can't get up close and take pictures of the politicians, you've got to stand over there'...

Yet, even with a formal organisational structure in place, this is no guarantee that alternative media outlets will find reporting their version of the truth easy going. This was underlined during a visit at Goolarri Media Enterprises in Broome, in the northern part of WA¹¹⁴. This is an Aboriginally owned and run radio station¹¹⁵ servicing large areas of the Kimberleys, where 33% of the population are Aboriginal. Goolarri runs a 24-hour radio station with only 3 full time staff and one part time, the rest are

¹¹⁴ As we were walking around the radio station during the visit, talking to various people along the way, this interview was not recorded for practical reasons. However, the two main informants recieved a copy of my notes for reviewing.

¹¹⁵ They also run a small tv station with very limited local productions, as well as being in charge of coordinating the BRACS system (Broadcasting for Remote Aboriginal Communities). Additionally they have a training program, training journalists and media technicians, plus many other activities.

volunteers. Consequently, they cannot for example run their own independently produced news bulletin, but have to tap into other radio programs. Because of these economic restraints, they rely heavily on volunteers, both children and adults especially from the town of Broome, who come in and wish to do a show. According to their own evaluation, this keeps the programming diverse.

Goolarri started broadcasting on the ABC¹¹⁶ network in 1991. According to DW, co-director at Goolarri, ABC has been very instrumental in assisting Indigenous groups starting up media outlets. She said this was especially thanks to people from the ABC board, who in the late 80s set up workshops in the Kimberley region to teach media and communication skills to Aboriginal peoples. So the ABC provided the initial training and the opportunity to broadcast. I asked DW if she thought for example Goolarri would have developed without this initiative from the ABC, to which she replied that she thought it would have come about anyway, but not as quickly. She said it would probably have developed some way or another, 'But the ABC provided themselves as vehicles'.

While Goolarri *is* a commercial station, KF, the director of the organisation, emphasised that the money is going back into the community. He for example told about how they have facilities on site at Goolarri for families to use for wakes or funerals, and added 'We have relationships like that [...] there is a human element of growth'. By this, he clearly meant to distinguish the organisation from other commercial media outlets. Nevertheless, money and funding for programs did of course play a role in the life of the organisation. In fact, the first thing DW spoke about was 'appropriate funding' and independence. She said that they were not really independent, as most of their funding came from ATSIC. She mentioned the case surrounding Geoff Clarke (the former national head of ATSIC, who in the mainstream media was under heavy fire for possible unbecoming conduct and misuse of organisational funds), and DW questioned how good Goolarri had really been on giving a critical analysis of that issue. She questioned how much that was really covered by Indigenous media in general and said 'How strong have we been in covering where ATSIC has gone wrong?'. She spoke of ATSIC as 'the hand that feeds us' and pondered on how problematic it was to bite that hand.

¹¹⁶ The Australian Broadcasting Corporation.

Based on these examples from the alternative media scene, there is little doubt that organisational structures impact directly on the ability (or willingness) to report on certain issues, as well as on the relationship with the surrounding community. Clearly, structures can both facilitate a smoother co-existence and exchange of viewpoints with the community, but may also in some instances hinder adequate levels of reporting on certain issues.

The next question is whether this observation also holds true for ‘mainstream’ media. Starting with statements from someone who has experiences with both ‘camps’, the following quotes are by KB, at the time of our interview employed by the national SBS radio station¹¹⁷, but formerly editor of The Aboriginal Independent Newspaper. KB was very clear in his statements that the fact that the newspaper he used to run was independent contributed to its ability to ‘seriously challenge [...] the establishment generally in regards to many Aboriginal issues’.

KB: [...] And the newspaper I ran, The Aboriginal Independent Newspaper, was – we were saying some pretty radical things compared to *mainstream* media. And if we weren’t in a democracy, I suppose I wouldn’t be allowed to do that. At least, it is that old attitude: ‘I don’t agree with what you say, but I will defend to my death your right to say it’. That was quite a poignant saying in my head sometimes, because I knew we were seriously challenging some institutions and the establishment generally in regards to many Aboriginal issues.

This provides further support for the conclusion that organisational structures impact on the ability (or willingness) to report on certain issues, in this case the ability and willingness to challenge the establishment¹¹⁸. This was an ability KB apparently felt expedient to be nursing.

KB: A very widely held view in the Aboriginal community was that there was a newspaper needed. Having a radio station is one thing, but the radio station couldn’t be too political because it was funded by the Government. And one of *our* priorities was not to apply for Government funding. We had to survive as a commercial newspaper. Otherwise we’d lose our editorial independence.

Retaining independence from one’s funding sources has already been an issue previously, when SM was quoted on The West’s relationship with WesFarmers. But it is not only structural issues at play within the organisation, but also outside of it, which

¹¹⁷ In the sense of being economically secure and having nation wide penetration, SBS is arguably a mainstream media organisation. However, the ‘Special Broadcasting Services’ were developed to provide news in native languages for non-English speaking immigrants to Australia. Thus SBS still runs a news service in eg. Danish, Greek, Italian etc.

¹¹⁸ This is also supported by Mickler in (Mickler 1998).

can impact on the quality of the reporting. A good example of this can be seen in this statement by CW from The West, where she speaks about the fact that it is mostly male elders who are the spokespeople for remote Aboriginal communities, and this may bias the type of stories coming out from visits to such communities, if the journalist does not actively try to balance it.

H: So when you go there, is it then difficult to get to speak to the people other than the elder?

CW: Not really. You would usually go through the elder, the elder would know that you are there, and approve for you to be there. And again, I've usually found that as long as you ask for permission to speak to the women or to the children, whoever you want to speak to – no one has ever said no. But they do appreciate just being asked.

While in many other respects there appears to be quite some differences between the level of interaction between Indigenous and mainstream groups in Australia and New Zealand, statements about problems and issues within the mediasphere are remarkably similar. This may be a result of chronology, as I went to New Zealand after WA and aimed for the same type of data. However, as data differs rather a lot within the other 'spheres of deliberation', this is hardly the real explanation.

A few examples will illustrate similarities with WA in how respondents from New Zealand felt that structural issues both within their own organisation and in society generally impacted on the content of their reporting. As in WA, the local editorial collective for Indymedia was contacted, in this case the Wellington branch of Aotearoa Indymedia. Here I got in touch with K, who more or less told the same story about the organisation of Indymedia as I was told in Perth. K's conception of the global geographic placement of New Zealand corresponds rather well with what was previously described as issues of 'physical location and distance' in the case of WA. Adding to this is the similarity in organisational structure, which of course is no coincidence in view of the joint attachment with the global Indymedia collective.

K: You don't get anywhere much more decentralised than New Zealand, we are at the periphery of everything, down at the bottom of the Pacific. [Going on to speak about Aotearoa Indymedia specifically]. Each area is independent of the other. It all flies off in its own direction under the same banner, that governing philosophy of creating media in a different way or getting media out there. [...] There is a sort of editorial collective, which is anybody that is willing to spend time to be involved in that. And I have got to say that for the bulk of Aotearoa Indymedia it is Pakeha, basically.

As with Perth Indymedia, even open publishing like this apparently has problems attracting Indigenous contributors. One possible explanation for this might be issues of

access to the internet, certainly in the case of WA. Staying on the alternative media scene in New Zealand, CA, a journalist from a rather different and arguably more well-established alternative news outlet, was also interviewed. She worked as a reporter on Mana News, which is a Maori news organisation both running daily radio shows as well as publishing a bi-monthly magazine. Arguably, the fact that the radio show can potentially be listened to by all New Zealanders (it is broadcast via Radio New Zealand) and the magazine is on sale in all larger news stores in the country, makes it a less marginalised media organisation. However, as pointed out previously, their daily radio program is on at 6.24 in the morning, which in the words of CA is a ‘marginalised time’.

Mana News does not only broadcast for the broader New Zealand population, but also offers programs for local iwi stations, in this way contributing to a vibrant iwi radio station network. While the technical details were rather different with Radio Goolarri in Broome, results appear somewhat similar: to be able to provide an alternative news source to the Indigenous population, which does not necessarily repeat the established truisms of the mainstream media.

CA: [...] We have a program that we put on on the iwi stations every Thursday morning, it is a kind of current affairs program. And that gets networked out to all the iwi stations around the country. And all our English language programs and Maori programs are offered to all the tribal stations. There are a few that have a Maori language only policy and that sort of thing, and don't take our programs. But I think there is about 22 stations, and I think 17 of them take our English language programs.

Thus Mana is at least partly successful in providing alternative stories to radio listeners in New Zealand. Other problems nevertheless remained in interactions with the wider community. At the time of our meeting, CA had just received an official complaint about biased reporting in a story she had done on the foreshore and seabed issue. This led to a discussion of the role of the broadcasting authority tribunal as one of society's imposed constraints on what can and what cannot be said in the media.

CA: Well, it *is* a toothless tiger, but what it does is it ties you up in administrative hassle, and it has a psychological effect on you. [...] It goes on and on. So it can tie you up administratively for about 6 months. It is a real hassle. And when it does come out – any Maori organisation's credibility is really really on a slim line in New Zealand, because if there is *any* kind of Maori failure it is highlighted. So if we were to lose – or even if we don't lose! – even if it is thrown out, it will make it look like our failure. [...] So, yes, I am a bit cynical about the role of the minority in the media.

Apart from broadcasting standards authorities, other external structures may impact on the content of media debates about Maori (or Indigenous) relationships with mainstream society. One such external influence is the structure of international agencies such as for example the United Nations, which may serve as a watchdog on relationships and fair interaction. I asked CA to what extent this international context impacted on media debates in New Zealand.

H: [...] I am wondering: you were talking about Human Rights breaches – to what extent is that sort of international context part of the debate here?

CA: It is, it definitely is. A number of Maori groups are complaining to the United Nations. [...] it is only a little sort of slap on the wrist type of thing, but it is embarrassing in international circles for a country like New Zealand.

But while CA was cautiously optimistic about the kind of impact a complaint to an international agency might have on the national debate, CL, who hosted a Sunday morning radio show and had in fact participated in UN hearings about minority rights, was much more sceptical of any real change emerging from that front.

CL: [...] The same with the Human Rights Commission, which was set up a few years later. And they were taken very seriously in the 70s. It was a kind of new frontier in rights, legal rights. And then Indigenous rights began to be embroiled in that – the great and never-ending debate over The Declaration of the Rights of Indigenous People, which I went to a couple of sessions of. I fell asleep in one of them!

The UN system has many interests to please when negotiating a draft declaration of Indigenous rights, possibly so many that some Indigenous groups are perhaps better served by a national solution to which rights and obligations they enjoy in their local setting. In the case of New Zealand, there is no doubt that the Treaty of Waitangi plays a huge role in this, which was also greatly emphasised by CL: ‘But the phenomenon of inclusiveness here is really *only* attributable to the Treaty. There would have been, I think, very little inclusion of the Maori voice in the national voice had it not been for the legal dimension of the Treaty, the rights of Indigenous people, the doctrine of Aboriginal title, all of that being revived here’. This means that the Treaty of Waitangi arguably has a positive impact on Maori ability to influence media debates.

CL was not the only one implying such a view, though GJ in the following only indirectly supports it. Being a journalist at a mainstream paper himself, one may detect a certain amount of disapproval of unfair competition in the following statement. This

may be reading too much into it, but either way he definitely sees the Treaty of Waitangi as being instrumental in securing a strong Maori media in New Zealand¹¹⁹.

GJ: [...] do you know how that [the existence of Maori media] came about in New Zealand? [...] It was court cases. Briefly, for the last 30 years there has been a battle to rejuvenate the Maori language, and it came to a head in the early 90s, where the Privy Council, which is the highest court New Zealand has (or until they got rid of it), they ruled that New Zealand had a duty to protect the Maori language. And they funded local iwi stations, local tribal stations, and things like Mana News. Mana News is different, because it is national radio, but a lot of iwi [...] stations. So that is why there is such a strong Maori media really, it is through Government funding.

It has by now been established that intra-organisational structures within various media outlets (both alternative and mainstream) as well as larger societal structures (such as eg. the existence of the Treaty of Waitangi) plays a role concerning which stories are made accessible to the public. Considering specifically the availability of stories about Indigenous interests in each country, however, many other factors play a role in whether this information will be spread out to the population (and indeed, to the Indigenous population itself). One crucial factor here, judging from various interview statements, is the level of cultural sensitivity and respect being shown by individual reporters. One question in relation to this, is whether mainstream white reporters can adequately report on Aboriginal/Maori issues. While it smacks of racism to claim that only Indigenous people can write stories about Indigenous issues, it is also a plausible claim to make that if there are *no* Indigenous journalists whatsoever working within media, this will adversely affect the quality of the reporting.

The need or desirability for Aboriginal contributors was debated with representatives from Perth Indymedia, where SO stated that ‘we’d really like more Indigenous participation, but it’s hard’ and ‘we don’t really have good contacts with the Indigenous community’. BG further elaborated upon this, apparently holding the view that Indigenous reporting was best left to Aboriginals themselves. BG: ‘[...] It is hard for us - you know, white activists who have a home, who don’t have much money, but we still have food on the table most nights - to be able to try to reach into that world and

¹¹⁹ Although he does not mention the Treaty directly, it would function as an important legal argument in the debate over Crown responsibility to preserve and protect the Maori language. The Privy Council he refers to in the quote is the one in London, which until June 2004 (when New Zealand stopped using it) was the highest court in New Zealand – arguably in a political attempt to distance New Zealand further from its colonial past.

offer solutions without sounding like we are patronising them'. AB seconded him by directly referring to issues of cultural sensitivity.

AB: [...] We try to help, but sometimes it's really difficult, because we don't understand the culture, the language, the ehm. You know, there's lots of things we just don't understand, and it's almost, we back off, we hold off helping because of that. Or we'd just better check with everybody first to see if we are allowed to do this, and that's the sort of thing that slows things down... So you try to intervene, but there is all that cultural sensitivity that has to be looked at.

However, not all non-Aboriginal journalists shared their profound concern about risking cultural insensitivity when reporting on Aboriginal issues. On the contrary, both KB and CW showed considerable pride in their work, and felt that they *could* make a difference in the quality of the reporting of these issues. Referring specifically to his work for The Aboriginal Independent Newspaper, KB said.

KB: [...] I think that you'll find that prior to 1997, the coverage of Aboriginal issues would have been quite paternalistic. Quite negative, and probably with very little consultation with anyone; and if it *was* with anyone, it was usually with the same one or two individuals. And I think we helped to broaden that; to help media realise generally that 'hang on, this is a wide group of people, with a *wide* group of interests, and a wide group of people that we should talk to'. So I believe that we helped there.

CW: [...] it has got a lot of everything in it, really. There's a lot of politics, there's a lot of personal stories, there's a lot of welfare type issues, there's a lot of education issues, a lot of health issues. *Everything* is included in Aboriginal affairs. And we are talking about a people who make up only 3% of our population, but have some of the worst health and poverty issues in our society. And on the other side of it there's a lot of really wonderful cultural parts to it, arts, and theatre, dance, bush medicine. All those sorts of things that are a lot more positive as well. So I really enjoyed reporting on it.

So while CW acknowledged the complexity of Aboriginal reporting (perhaps especially as a cultural outsider), she also undoubtedly took pride in her work. While several respondents within various areas were rather critical of The West and its near monopoly on news, in fact many of them reported a good personal relationship with CW in terms of getting her interested in stories they felt should go into the paper. CW herself also placed great emphasis on her efforts towards showing proper cultural awareness and thereby respect towards Aboriginal groups. One rather peculiar (but also telling) example she gave, was on writing obituaries for Aboriginal people. As in many other cultures, rituals and traditions surrounding death can be a very sensitive issue. Nevertheless, CW obviously felt that this was also an opportunity to show the proper respect that would earn her the trust of the community.

CW: [...] at the end of the day, what has been written for someone's obituary, the family has to be happy with. So you know, we provide them with drafts and we get their permission. We ask them if it is inappropriate to use a photograph, and we allow them to choose the photograph they want to use. And we allow them to include or not include if there was a fouled marriage or some other part of their history that they wouldn't want to reveal. And so families have much more control over that, there is no point in upsetting a family when they've lost someone.

Comparing this data from WA on cultural sensitivity with data from New Zealand, K also pondered the issue of whether Maori stories were best written by Maori or not. While I may have unduly meddled with his viewpoints here by making certain suggestions, it is important to underline the point that if one is solely to rely on Aboriginals reporting on Aboriginal issues in Western Australia, they will be virtually invisible in news media. Several respondents in New Zealand did in fact talk about successful examples of non-Maori reporting on Maori stories and, indeed, vice versa. Therefore, K's statement below is still representative for views on the issue in New Zealand.

K: [...] And I *do* find it uncomfortable when we need to figure out something and we say 'lets go and ask this one Maori guy that we know, because he will give us all the answers'. And he says 'fuck off, find out for yourselves'! And that's cool. [...] we still think they are important stories to get out there, without relying on Maori being the only ones telling their stories. Because you are right: there is an attitude that it should always fall upon them to do their own thing. I don't agree that is the right way to do it. It is an absolution of responsibility, which I think is a bit of a cop out.

Pakeha journalists may in fact be very capable of showing a level of cultural insight or sensitivity conducive to balanced reporting. On this note, I contacted CA from Mana News to get an interview, and interestingly, her first reaction was to tell me that she was not Maori herself, and therefore I might wish to interview one of her colleagues instead. But in light of her long experience within the field, her cultural affiliations played a much lesser role than her professional ones for this study. Judging from her comment below, however, this has not always been the case in her professional life.

CA: I also used to keep a very low profile, my name was never put onto anything that was read by the news reader, so it appeared like it was all Maori material and that I wasn't there as a Pakeha. And also about, it is only about 4 or 5 years ago I suppose, 4 years ago, I thought 'well, no, it is getting to a stage where this is almost dishonest, I am going to be who I am', and I put my name on things. And it doesn't seem to bother people. I think I have just got credibility now.

There is no doubt that she felt very strongly on the issue of providing balanced reporting on Maori interests, both to the Maori community, but preferably also to the wider New Zealand population. From a normative point of view, which is at least partly empirically

supported by the above examples, it is very problematic to claim that Maori journalists are the only ones fit to report on Maori issues. Not all Pakeha journalists in New Zealand always write in a balanced way about Maori stories, but the following statement by GJ working for The Dominion Post certainly attests to a level of sound reasoning on the issue.

GJ: Yeah, there is a strong identity, definitely. But there are also a lot of tribal differences too, there are a lot of rivalries, which is part of the problem that Maoridom has had. That they can't get a common voice, and I don't think we should expect them to either, because not all Europeans in New Zealand agree. It is like having a party of people who like to wear black shoes, they aren't always gonna agree either. Or people who wear glasses, they are not going to have the same political feelings. There is a unity though, that is probably lacking in Australia maybe.

Of course, GJ was making his career as a reporter in a country where at least some level of cultural awareness is a given. This goes for, among other things, vocabulary in the media, where eg. the Maori word 'hui' for a meeting is a commonly used term by many institutions, including the Government. Furthermore, Maori traditions such as the haka before any national rugby game as well as formalities on the marae are an established part of the cultural landscape, and therefore hardly ignorable by reporters. While having a group's traditions firmly established in a society may not in itself enhance ability levels in terms of engagement, lacking such establishment may very likely provide obstacles to engagement. GJ pondered on this in relation to the recently finished series of hui between the Government and Maori tribes on the question of traditional ownership of the foreshore and seabed of New Zealand. – A culturally as well as economically sensitive issue due to the huge fishing interests in the country. Speaking about government conduct on this issue, GJ underlined the fact that government representatives did indeed follow tradition in these consultations (which were closely covered by the media), while he interestingly left open the question about form and content.

GJ: [...] You know, they didn't call it a meeting, did they? They called it a hui. And they went to marae, they didn't have it in halls or government offices, they went on to the marae where it is very traditional, they had to go through – *every time* they had to go through the two hour long welcome with all the singing and speeches in Maori. So it is pretty time consuming, it is very culturally strong. The argument about form and content is further down the track, but they actually got out there and did it. They set aside a lot of time to go do it.

Acknowledging such cultural practices is arguably a way of meeting Habermas' requirement that nobody may be prevented through force from participating in dialogues; in the sense that meeting Maori on their terms means that some cultural obstacles for Maori ability to participate are overcome – while undoubtedly other obstacles occur for government employees, whose departmental culture may not look favourably on such time-consuming activities.

Supporting the impression that to a large degree Maori issues are in fact an integrated and somewhat established part of New Zealand society (and therefore news stories within the country), is the following statement by CA on the level of everyday interaction between the two groups. At the time of the interview, she was working on a book about experiences with intercultural marriages between Maori and Pakeha New Zealanders (Archie 2005). CA: '[...] But the debate here is characterised by this sort of Maori/Pakeha thing, but the reality is that *huge* numbers of people are intermarried and a lot of families are together, and people work with each other and so on, so the issue isn't quite so polarised as that'.

Such contingencies will impact in a profound way on the level of exposure to various life experiences within the country, and therefore also increase levels of understanding of viewpoints from 'the opposite camp'. So it is not only media that has a role to play in the awareness raising processes, although media has got a very important function in this connection. This function may be fulfilled in various ways; and while showing at least some level of cultural sensitivity is a definite prerequisite for moving forward, other much more instrumental issues should also be taken into account. For example how the use of various media technologies may contribute to raising awareness of differing life experiences. Empirically speaking, the intentions and good will by journalists have only little impact if their stories do not actually reach the target audiences. One phenomenon that was heavily debated among respondents within especially Western Australia was the potential of the internet in creating faster and cheaper access to news stories without being subject to geographic limitations. Hopes seemed rather modest, however, especially with regards to Aboriginal access to these sources. KB: 'Of course, you can look at the Aboriginal community: the only access that Aboriginal people have to the internet - there might be a very small percentage that have it at home, but it is usually through their workplace'. This impression was

seconded by CW, when asked about use of The West's homepage. H: 'Do you have any feeling for – do people *use* the internet pages? CW: Yeah, I think people do. From what I've heard it is mostly business people in offices who maybe log on to the webpage while they are eating their sandwich or something, or look up their share prices or that sort of thing'.

SM was much more optimistic (while still cautiously so) about the future for the internet as a news media. However, he is emphatically *not* speaking about news access for the Aboriginal population of the state. SM: '[...] So we have a monopoly. [...] The real alternative is the internet, I expect that over time you'll find people accessing newspapers daily on the net. [...]. So all of that can change. Over the next few years The West may find itself challenged – not necessarily in sales so much, but in influence'. BG from Perth Indymedia, suggested that it was almost oppressive to expect Aboriginal people to use the internet to access information. Other respondents might not agree with him on this point, but he was not alone in suggesting that radio might be an easier medium to reach the attention of Aboriginal communities through.

BG: [...] if you try to approach them with technological spaces or tools like the internet, that in a way is oppressive. To say 'we just expect you to have a computer, to be able to access this information'. I guess, to be able to get beyond that for Indymedia, it needs to start looking at print stuff, radio, community TV as well. Stuff they *do* have access to, and where they *can* participate more freely.

Possibly with more of a feeling for what is really going on in non-metropolitan Aboriginal communities, the director of Goolarri Media in Broome KF had very strong views on the need to spread internet services to Aboriginal communities. He said that first and foremost Indigenous people need to be able to have access to those services. He talked about one of the programs Goolarri is involved in, called The Outback Indigenous Network (OIN), which works at providing broadband access for remote communities. But as he also remarked, even when it comes to phone penetration in these areas, Telstra has done very poorly. He compared this initiative to the WA Department of Education being very proud of providing internet access in schools. But as he added, the problem is that the kids are not allowed to develop their skills outside the schools, they only have access during school time, and therefore are not able to use the internet for their own purposes. Saying that 'education is definitely the key', he expressed hopes to get the kids into internet use at an early age and through them 'marrying-in the old

people'. While initiatives as OIN may be the very first important steps on the road to wider access to a varied level of information also for Aboriginal communities, there is no doubt that there is still a long way to go concerning KF's hopes for the future.

Similar considerations were found in New Zealand, although internet access here was much more widespread (as well as cheaper), and geographic contingencies played a lesser role for access (be that access to the decision-making arenas or to information generally). Nevertheless, K is probably right in observing that: 'I mean, the internet is still a really exclusive piece of machinery and it is accessible by, I would guess, a fairly generalisable group of people: students, middle class often having more computers than others, people in educational centres'. And further on the question of a future role for news on the internet: 'I don't see it as the be-all and end-all of media. It is not that great! It is a frustrating waste of time most of the time. It is useful in its small instances'.

As in Western Australia, I was advised to consider the role of tribal radio stations to get a feeling for Indigenous access to news stories. Apparently, there was a shared general feeling that this was the most efficient way of communicating with these communities.

GJ: [...] And that's where I think you should look at really closely iwi radio stations, tribal radio stations. They are *very* well listened to, and a lot of the politicians and the powerful people in Maoridom use those rather than mainstream, because they know they will be getting to a different audience. And when I say politicians, I mean Maori politicians, not so much Pakeha.

At the beginning of this subchapter, alternative media was defined as partly characterised by being less economically powerful than other types of media. This goes for use and access to technological equipment as well, as highlighted by the following evidence from CA from Mana News.

CA: We are always sort of without the right kind of gear and always the last person to have a new tape recorder or whatever it is. I have been out so often to hui and thought 'Oh my God, what do I look like with this clunky gear?!', you know, carting all this stuff and everyone else has got minidisks. We do have a couple of minidisks in the office, but they are only let out on certain occasions! [Laughter]. So that will give you an idea of how it operates.

Rounding off this section of the analysis, there is little doubt left that the media does indeed have a role to play in exposing the public to various life experiences and standpoints. In addition, it is also well established that mainstream and alternative

media have different functions in this process and cater to different needs, the former supplying information to the wider public on at least a limited number of Indigenous issues, and the latter perhaps giving more of a voice to special interests, however, to a smaller audience. That there is indeed a strong link between media and education is supported by the following statements by CW and K, who from each their setting both heavily underlined the educational potential of media.

CW: Oh yeah, I think there definitely is. A need for information. I think there is *still* quite a level of ignorance in the non-Aboriginal community. [...] there's a lot of misconceptions around about what Aboriginal people receive from the Government, and what their level of disadvantage is. And a lot of people don't understand the issues, really.

H: I am wondering, is there a generational difference here as well?

CW: I think so, yeah. Certainly. [...] I think that the education system now is much more aware of providing more information on Aboriginal history and culture and that sort of thing. Much more so than when I was at school. So, yeah, I think those sorts of things are improving.

Speaking specifically about the potentials for his own form of media, namely Indymedia, K in fact made a statement that happens to fit extremely well with Habermasian notions of ability to debate.

K: [...] And I think the access to comment on something immediately, or to think about it and come back and discuss it, adds to the skills of the people working within those areas of debate. [...] And now there is a forum available where somebody will post something, and you can actually – you can choose to argue in a rhetorical sort of way, or you can choose to develop that skill and actually *debate* it. Saying 'well, I have this argument and I back it up with this sort of information'.

- If such considerations should set the standard for the future role of media in democracies, hopes for achieving solutions to various social and other types of problems via a deliberative process seem high.

13.4 The role of the educational system

From a theoretical perspective, there are two important functions for the educational system within any country attempting to be an inclusive democracy. First of all, the educational sector is in itself an arena for debate about values in society, and may as such exert a certain influence on political decision-making. Secondly, the primary function of an educational system is to impart children and students with the necessary abilities to get by in democratic societies - and in extension be knowledgeable about varying life experiences and values. These two points will both be unfolded in the

present subchapter, but primary focus will be on the role of the educational system in exposing children and young adults to various life experiences.

To analyse the empirical situation lying behind these theoretical considerations, qualitative data in the form of 3 interviews with people involved in the educational sector in both settings will be employed. This gives a total of only 6 interviews, which is surprisingly little, considering how many people were contacted - either potential respondents did not find the research outline sufficiently relevant to them, or they were simply too busy. To supplement interview data, comments are therefore included on the curriculum frameworks for both Western Australia and New Zealand in the ensuing analysis. These documents complement well what I was told by respondents, and as policy statements they are very informative in terms of the values and visions policy makers wish to impart to children and adolescents in the education system.

This means that out of the six coding categories employed in the analysis in this subchapter, the first two, namely ‘curricula’ and ‘inclusive policies’, will be based on policy documents, whereas the last four all are based on interview data. These four remaining categories have the following headings: ‘structure’, ‘decision-making and influence’, ‘contact and trust’, and finally ‘cultural sensitivity’. Based on prevalent themes in data, these categories all serve to illuminate how the educational system contributes to expose (future) citizens to various beliefs and values, thereby presumably better equipping them to take part in democratic society.

The Curriculum Framework¹²⁰ from WA is very interesting to look closer at in relation to a normative theory of democracy as in the deliberative model. It is a policy document with very strong value statements in connection with concepts such as ‘democracy’, ‘tolerance’, and ‘citizenship’. It was issued in 1998 and meant to be fully implemented by 2004, which coincides with the time of my visit in WA. In the words of the document itself: ‘It is neither a curriculum nor a syllabus, but a framework identifying common learning outcomes for all students, whether they attend government or non-government schools or receive home schooling’ (Curriculum Council 1998: 6). The emphasis on *all students* is no coincidence. The education sector in WA is deeply divided between the non-governmental and the governmental sector, with the former presently ‘winning’ over the latter in terms of attracting students. This is part of the

¹²⁰ The Curriculum Council, WA 1998.

impetus behind the framework, where the word ‘flexibility’ is greatly emphasised already from very first page, and it is stated from the outset that a greater need has been identified in 1995 for involving non-governmental schools more in developing curricula.

According to the words of the framework itself, it is a product of a consultative process involving deliberative elements. It is stated that ‘seven months of consultation took place’ (*ibid*: 7) on the first draft for the framework, and that ‘a series of public meetings provided opportunities for discussion, debate and the sharing of ideas’; and further ‘The agreed values have been created through a process of consensus and wide consultation’ (*ibid*: 8). A number of values are specified in the framework, and in opposition to traditional syllabi, the focus is on outcomes rather than on input. In this way, the framework is envisaged to be more dynamic than a syllabus, in the sense that the outcomes-focused approach leaves greater flexibility for individual teachers and schools.

There are great differences both in terms of the geographical setting, the ethnic and socio-economic background for students in WA, as well as in the financial situation for schools. This fact has undoubtedly played an important role when wording the framework in such terms that it was acceptable to all parties (interview data suggests that also non-governmental schools were in fact happy with the framework). A typical example of how the values and intentions of the framework have been worded can be found on p.16: ‘While there is a range of value positions in our pluralistic society, there is also a core of shared values’. This is both a gesture to minority viewpoints, as well as an attempt to maintain control with the educational sector and the values imparted to students. Five such ‘core shared values’ are summarised, among those ‘social and civic responsibility, resulting in a commitment to exploring and promoting the common good; meeting individual needs in ways which do not infringe the rights of others; participating in democratic processes; social justice and cultural diversity’ (*ibid*: 16). These may seem rather weak value statements in the sense that hardly anybody would disagree with them. But attempts are also made within the framework to specify more directly what it would mean to impart such values to students. Particularly interesting from a deliberative democratic point of view are the descriptions of values and learning outcomes under the general learning area of ‘Society and Environment’ (pp. 249-288).

Here concepts such as for example ‘civic responsibility’ and ‘active citizenship’ are widely used, and details are given of how children are thought best imparted with these values. The learning goal of ‘active citizenship’ is thus defined on p.252: ‘Students demonstrate active citizenship through their behaviours and practices in the school environment, in accordance with the principles and values associated with the democratic process, social justice and ecological sustainability’, and further explained as a ‘[...] respect for different choices, viewpoints and ways of living; and ethical behaviour and equitable participation in decision making’ (*ibid*: 261).

Principles and values associated with the democratic process and with social justice would indeed be part of the core abilities necessary to endow students with, if the ideal of deliberative democracy is to be approximated within society. In this sense, the Western Australian Government is approaching a policy that can be evaluated against a deliberative democratic standard. This point is further supported by the statement that ‘The Society and Environment learning area, with its focus on civic responsibility and social competence, has a unique place in the Curriculum Framework. Its basic aim is to give individual students the ability to make reasoned and informed decisions as citizens of a culturally-diverse, democratic society in an interdependent world’ (*ibid*: 251). Aiming to give students the ability to make reasoned and informed decisions as citizens of a culturally diverse, democratic society would exactly fulfil the premiss of ability in Habermas’ theory of deliberation.

Several other formulations within this section of the framework support the impression that while the authors of the framework may not use the term ‘deliberative democracy’, they are in effect promoting an educational system based on many of the values and requirements inherent in this normative theory. For example, it is stated as goals that ‘[Students] will seek to constantly test the integrity of information, recognise the perspectives of all stakeholders and modify conclusions and action where appropriate’ (*ibid*: 255), and that ‘They explore the multicultural nature of Australian society; they analyse a country’s response to internal dissent; and they examine civil rights movements’ (*ibid*: 258). These would certainly be qualifications that are important in a deliberative process. These qualifications are broken down within the framework so that each stage in the child’s development is described in conjunction with the abilities the child is supposed to have reached at a certain age. Looking at the

last stage of development here, just before the child leaves compulsory schooling, this description in fact resembles the model deliberating citizen – assuming that educational goals are indeed reached. Under the heading ‘late adolescence/young adulthood’, it is stated that ‘Young adults demonstrate an understanding of political, legal and economic structures, particularly in respect of policy generation. They evaluate these systems and policies from social justice and democratic process perspectives and identify ways in which citizens can actively influence the operation of these systems’ and ‘Young adults should continue to demonstrate a capacity to review, and, if necessary, modify, their personal perspectives’ (*ibid*: 278). If these are abilities Western Australian youth leave school with, the future for the state of democratic involvement and a system approaching deliberative democracy looks bright, indeed.

However, the question of theory and practice obviously comes next. Because even if these are the abilities Western Australian school children are *supposed* to leave school with, have they in fact acquired them? Though the wordings under the ‘Society and Environment’ learning area especially are very impressive in terms of an ideal of deliberation, one should also not be blind to differences between saying and doing. All three respondents from WA showed great support for the content of the Curriculum Framework, but those two who ‘represented’ the Aboriginal schooling ‘system’ (both objected to the terms), also pointed out that in Aboriginal schooling (and other socio-economically pressurised groups) there is often a gap between what one wishes to accomplish and what is in fact doable. Writing an extensive policy document does not do the trick in itself, and a comparison between the WA Curriculum Framework with its 326 pages and the NZ rather minimalist framework¹²¹ (23 pages) highlights this.

The NZ curriculum has been revised in 1997¹²², and according to the foreword ‘It brings together the best of our past curriculum experience, recommendations of the major reviews of education in recent years, and submissions from schools, boards of trustees, and the public, and the views of business and enterprise’. In other words, this policy document also claims to be the product of a more or less deliberative process, and not only has the public and the experts (schools and boards of trustees) been heard,

¹²¹ The New Zealand Curriculum Framework, from www.tki.org.nz/r/governance/nzcf/index_e.php downloaded on June 15th 2004 (23 pages in total). Unfortunately, no page references are available as the online text is not well-formatted.

¹²² (Bishop and Glynn 2003: 135).

but so has the business community - this certainly appears like an inclusive approach to people with an interest in the content of the education system.

Part of the goal identified in the curriculum is to enable students to ‘develop their potential, to continue learning throughout life, *and to participate effectively and productively in New Zealand’s democratic society* and competitive world economy’ (my emphasis) – as in WA, there is an emphasis on enabling students to participate in democratic society. Due to its shortness, provisions for Maori stand out more clearly in the NZ curriculum than the few words about Aboriginals in the WA Curriculum Framework. For example, it is stated that ‘*The New Zealand Curriculum recognises the significance of the Treaty of Waitangi*. The school curriculum [at individual schools] will recognise and value the unique position of Maori in New Zealand society. All students will have the opportunity to acquire some knowledge of Maori language and culture’ (original emphasis). While mentioning the Treaty of Waitangi is more or less a given in New Zealand policy documents¹²³, stating that all students will have the opportunity to acquire some knowledge of Maori language and culture is less certain. - Although Maori *is* an official language in the country, so is sign language! Yet, English is emphasised as the most important medium of instruction in New Zealand schools, for example under the learning area of ‘language and languages’, where it is stated that

Because English is the language of most New Zealanders and the major language of national and international communication, all students will need to develop the ability and confidence to communicate competently in English, in both its spoken and written forms. [...] Maori is the language of the tangata whenua of New Zealand. It is a taonga under the terms of the Treaty of Waitangi and is an official language of New Zealand. Students will have the opportunity to become proficient in Maori.

The WA Curriculum Framework does mention Aboriginals as holding a particular place in WA society, but in comparison with the NZ curriculum they take up a much less prominent place. However, using the model of deliberative democracy as a normative yardstick, the specific mentioning of minority groups is much less interesting than more general provisions for creating an inclusive society. There are many similarities between the curricula for the two settings, although the descriptions from New Zealand are much less detailed than those from WA. For example, the NZ curriculum broadly states that ‘*The New Zealand Curriculum reflects the multicultural nature of New Zealand society*.

¹²³ At least those drawn up after 1986, according to Fleras and Spoonley 1999: 121.

The school curriculum will encourage students to understand and respect the different cultures which make up New Zealand society' (original emphasis).

More or less directly comparable with the learning area of 'Society and Environment' in WA, is the learning area of 'Social sciences' in the NZ curriculum, where it is stated that 'A broad understanding of society is essential if students are to take their full place within it as confident, informed, and responsible participants. [Students] will examine the ways in which people from different cultures, times, and places make decisions [...]. Students will be helped to understand their rights, roles, and responsibilities as members of a family and as citizens in a democratic society'. Understanding different ways of decision-making and one's role within units such as the family and society are certainly conducive if students are later to take part in deliberating processes – which was underlined by the debate about legitimacy and representation above.

As in the WA Curriculum Framework, a number of specific goals or learning outcomes are also specified for New Zealand students. Particularly interesting from a deliberative perspective are those skills described as 'social and co-operative skills', where it is stated that students will 'develop good relationships with others, and work in co-operative ways to achieve common goods', 'participate effectively as responsible citizens in a democratic society', and 'develop the ability to negotiate and reach consensus'. If these are indeed goals that are reached, the future looks bright for the possibility of deliberation in New Zealand - as in WA.

Once again, however, it is expedient to point out the differences between words in a policy document and reality in schools. In WA, the educational system is strongly divided between governmental and non-governmental schools, often with great socio-economic differences between them, and with many Aboriginal children either attending poor government schools or independent Aboriginal schools, that despite their non-governmental status hardly can be compared to rich private schools. Generally speaking, the NZ educational system is much more inclusive in the sense that most students, including most Maori students, attend government schools. There are certainly also Maori students (and parents) who wish for more accommodation of Maori tradition and culture within the educational system. The New Zealand Government seems to have been successful in going at least some way towards meeting those wishes and yet retain

a comprehensive schooling system. It is no coincidence that the last chapter in the curriculum includes the sentence ‘The statements are sufficiently broad and flexible to allow for local interpretation and elaboration. Such flexibility will empower schools and teachers to design programmes which are relevant to the learning needs of their students and communities’.

Interview evidence suggests that the New Zealand educational system is based on a general policy expressed for example in the curriculum, but then amply supplemented with various additional initiatives to target specific problems and wishes arising within the educational sector. The approach was certainly different within the two settings, with a very long and extremely detailed and comprehensive curriculum framework in WA, and a much shorter and more general one from NZ. Respondents in WA expressed the viewpoint that ‘existing policy’ was the be-all and end-all of Aboriginal education in WA, whereas the interview with MP, coordinator of the Pouwhakataki group¹²⁴, gave a very different impression of the state of affairs in terms of accommodating specific Maori wishes in the NZ educational system.

Illustrating this approach of creating inclusive policies, MP supplied me with a number of brochures specifically aimed at Maori students and their parents, and a number of policy documents are also available, among those a document entitled ‘Strengthening the Ministry’s response to the education needs of Maori’¹²⁵. This is an example of how the Ministry of Education attempts to make room for Maori educational wishes – even wishes within a particular iwi. Under the heading ‘Iwi Education Partnerships Facts Sheet’ it is stated that

Partnerships are relationships between the Ministry of Education and either iwi, or other iwi based and formed Maori education organisations. They are established to help improve the education achievement of Maori children [...] There is no fixed way for the development and establishment of these relationships [...] There is no one size and no particular way.

This is evidence of a much more open and dynamic inclusion of particular minority wishes than I saw in WA. The Ministry is very open about its policy in this field; according to its own statements in order to overcome Maori suspicion towards the education system. ‘They [the partnerships] are helping to overcome the difficulty [*sic*],

¹²⁴ Pouwhakataki is a group of people employed by the New Zealand Ministry of Education to work locally with Maori groups to help them get the most out of the education system.

¹²⁵ Available at www.minedu.govt.nz document id 7394. Accessed on April 27th 2005. Included as appendix g.

often-raised issue by Maori, of finding out what is going on in education'. The very last words on the facts sheet are 'An important part of this work is to enable a more inclusive approach for thinking about how positive change can be effected within education. This means that the Ministry becomes one part of a wider group who can contribute to achieving better outcomes, rather than the only group'. Comparing this with evidence from WA, the New Zealand Ministry of Education seems much more ready to devolve responsibility¹²⁶, which is probably part of the explanation for having retained a very inclusive educational system compared to that of WA.

Writing guidelines for an inclusive educational environment seemed a profitable line of work in New Zealand judging by the sheer number¹²⁷. Attention will here be restricted to one more document; 'Better relationships for better learning. Guidelines for Boards of Trustees and Schools on Engaging with Maori Parents, Whanau, and Communities'¹²⁸, which - as the title says - is a set of guidelines for parents on school boards to be more inclusive when engaging with Maori parents. This is a detailed set of guidelines, containing both theoretical reasons and practical ideas for greater Maori involvement in their children's schooling, and it is stated from the beginning that 'The choice is not whether schools develop a relationship with Maori communities but what the quality of the relationship will be' (p.7). One practical idea for improving relationships with Maori parents corresponds with a previous point under the debate about legitimacy and interaction: 'All schools contributing to these guidelines insisted that *kanohi ki te kanohi* is essential and that school leaders must present proposals directly to Maori parents and whanau' (p.10). Also interesting from a deliberative perspective, is the notion that school relationships with local iwi are important because they can provide a model for other local organisations to follow (p.25). The educational sector is directly identified as having potential for a positive influence on general levels of interaction between population groups with presumably different interests. - Something which directly supports the theoretical proposition that the sphere of

¹²⁶ According to Bishop and Glynn 2003, the New Zealand Ministry of Education has changed its policies rather dramatically to be more inclusive of Maori during the 1990s - see especially pp. 96-98.

¹²⁷ Moreover, the media did in fact show some interest in these policy documents, witness for example the article 'Maori education gets high priority' from The Dominion Post, May 31st 2004, which comments on the Ministry of Education's *Statement of Intent 2004-2009*. See appendix i.

¹²⁸ The Ministry of Education, New Zealand 2000. Available at www.minedu.govt.nz document id 4231. Accessed on April 27th 2005

education is important to include in an analysis of deliberative potential within a given society.

The remainder of this subchapter will concentrate on interview data obtained in the two settings. Data is not directly comparable due to the different types of involvement with the education sector respondents represented. In both settings, however, an interview was conducted with a ministerial official involved in respectively Aboriginal and Maori education. In WA it was the Director for the Aboriginal Education Directorate (RS), and in NZ it was the leader of the Pouwhakataki group (MP). A school principal was also interviewed in both settings, but from very different types of schools. The first was JH, principal of an independent Aboriginal school in the rural community of Coolgardie, which presents itself thus on the AICS homepage:

CAPS - Coolgardie¹²⁹

The school was established in 1981 by a group of Christian Aboriginal parents and it began with 20 students. Currently the school population has increased to about 100 students, ranging from Pre-Primary to Year 12.

In both size and demographic make-up, this contrast with Clyde Quay School in Wellington, where the principal LP was interviewed. This is a full primary school with a roll of 218 students in 2004, presenting itself thus on its homepage:

School Values¹³⁰

CQS community accepts diversity and it is seen as a strength. This is displayed in a number of ways. Children from other cultures are at ease here. Others see their uniqueness as something to be proud of. As one child said to me on my first day, 'Whaea Liz, different is good.' [...] We value parental and/or whanau input. Indeed caregivers are encouraged to visit and help out. We are all aware that education is for life and that school and home can make a great difference to a child's success.

So while JH and LP nominally were sitting in comparable positions, their everyday work experiences were in many ways miles apart.

The remaining part of the comparative analysis of how the educational systems in WA and NZ contribute to the public's ability to partake in deliberative processes will be based on four coding categories. These four are 'structure', 'decision-making and

¹²⁹ From www.aics.wa.edu.au Accessed on February 3rd 2005.

¹³⁰ From www.clydequay.school.nz Accessed on February 3rd 2005.

influence', 'contact and trust', and 'cultural sensitivity'. They are employed for two different reasons: the first category of 'structure' serves as an introductory reminder that data from these settings is not directly comparable, and that issues of structure impact heavily on access levels, and by extension on ability. The last three categories have been included due to their correspondence with the learning goals from the respective curricula, which can be interpreted as fostering school leavers (and possibly their parents) with deliberative skills. This approach will give an overview of data and form a basis for making conclusions about the respective contributions of each educational system in terms of exposing students to various life experiences as a substitute measure for potential levels of deliberation within society. Different positions and working conditions for specific interviewees are likely to affect analytic conclusions, which is the reason for pointing them out from the outset.

Therefore, the analysis starts with 'structure', as this is a prerequisite for making sense of the rest of the data within the field. Particularly data from WA abounds in comments on 'structure' and how the Ministry of Education, schools themselves, policies, and other structural factors impact on the room for manoeuvre or lack thereof in schools. Because the division - or even the widening gap - between the governmental and the non-governmental education system was a very prevalent theme in the WA debate, focus is specifically on comments relating to this fact. Starting with a rather neutral statement from the principal for CAPS Coolgardie, a second more colourful statement is included. While the latter may seem rather subjectivist, JH had left the Department of Education only a few months previously, and knew about how the Department worked, and according to my understanding meant no personal disrespect to 'RS' quoted elsewhere in this section.

JH: You see the Department of Education is a very large organisation and it has to create policies for Indigenous students and non-Aboriginal students as well, that are more across the board than specific to an area. [...//...] And I am very fearful for the government system in the next 10 years. I think the senior executives from [RS] and up are living in a cloud cuckoo land where they believe that they will always be able to influence education policy, that they will always be able to uphold their influence. What they don't understand is that when you get down to 60, 58, 56% of kids only going to government schools, the non-government school system is going to stand up and say 'well, we think what you are doing is dopey'.

Data from WA is undoubtedly heavily coloured by the fact that of the three interviewees within the sphere of education, two were people working outside the government system. Nevertheless, divisions between the governmental and the non-governmental

sectors were unquestionably an important theme in WA education, both judging by comments from RS from the Ministry as well as debates in the daily press¹³¹. JH had until recently been working in the Ministry, but had moved to the non-government sector as principal of one of the schools working together in an 'organisation' calling itself Aboriginal Independent Community Schools (AICS). These schools have generally been founded in the early 1980s, often in remote Aboriginal communities, where Aboriginal peoples found the government sector inadequate in meeting the educational needs of their children. AICS is a very loose organisation, as the main impetus behind these schools exactly was and is *independence*. Therefore, individual schools also differ quite a lot from each other. I spoke to JHI¹³², who was working as a local resource coordinator for AICS schools in the Kimberleys. Among other things, we debated the role of AICS schools in relation to the governmental system. As he remarked, the schools are to a large extent dependent on existing legislation, but the bottom line is that they are and wish to remain independent. Individual schools are run by a governing body in the community, and JHI said that the general policy of the schools is determined by the aspirations of the community rather than from the Department of Education in Perth, which he referred to as 'the Silver City'. While he in this way distanced the AICS schools from the government system, he also said that presently there was a good level of cooperation between government and AICS schools, because at this stage it had become obvious that these schools 'survived and thrived'.

One of JHI's points was that Aboriginal communities had learned how important it was for the entire community to have a well functioning school, and this he saw as an important factor in explaining the relative success of these schools¹³³. Another part of the explanation for the relative success of these schools is the funding system. The WA State Government funds public schools directly, while private independent schools get a large part of their funding from the Federal Government – this is especially true for the

¹³¹ A rough count of articles from The West between February 9th 2004 and April 8th shows 52 stories on the school system, out of which 31 focused on public/private schooling. A distant second prioritised subject was the lack of male teachers within the public school system. A typical article on the subject of public/private schooling is included in copy as appendix h, 'Parents turn from State Schooling'.

¹³² Unfortunately my recorder failed me during this interview, but JHI was subsequently sent a copy of the notes and approved them.

¹³³ Relative, because most of the schools are still battling heavy socio-economic and health disadvantages. One school on the AICS homepage cited 85% of their pupils as having hearing disorder due to the simple infection otitis media, which, if not treated with penicillin, can permanently damage a child's hearing abilities. www.aics.wa.edu.au Accessed on February 3rd 2005.

AICS schools, where parent contribution is naturally very limited, as many Aboriginal parents simply do not have the means. This means that the state/federal structure has a huge impact on educational policies in WA, where the State Government may pursue a particular line, only to see itself overrun by federal money going into the private sector¹³⁴. RS commented on what the ultimate consequences might be.

RS: And the Federal Government puts significantly more money into the non-government sector, and the difficulty for us is that if we are not careful, the government school system could become a residual system. Where kids tend to move across to the non-government sector, because as Western Australians become more affluent, they are prepared to pay a bit more money for education.

Comparing evidence above with data from NZ, the latter appears a much more homogenous system, even despite the relatively recent introduction of Te Kohanga Reo and the kura kaupapa system¹³⁵. This impression was enforced through a group interview with 5 people working for the New Zealand Educational Institute (NZEI, a kind of teacher's union¹³⁶). H: 'To what extent are – I am wondering, how many Maori kids are in the general system? SA/SH: 87% H: 87%. So that's quite high. SA: Very high. There is about 11-16% in kura kaupapa'. One of the reasons for maintaining such a high percentage of NZ children within the general education system, despite great ethnic diversity in the country, may be the level of flexibility built into the system. As pointed out above, the New Zealand Ministry of Education seems ready to allow for a lot of regional variance and accommodation of iwi wishes. This is an impression further supported by the explanation below, by the principal of Clyde Quay School.

LP: [...] Now we have two strands, really; most Maori children are in what I call general education. So they are in schools where the main medium of instruction is English. Then within that there are variations, so within what I call a general education school, you can have bilingual units where the medium of instruction is to a great degree Maori. And then it goes into total immersion, where it is still in a general education setting, but probably the teacher would speak 80-90% of the time in Maori and instruction is through the medium of Maori. / **H:** Aha.

LP: Then we have totally separate schools, called kura kaupapa Maori, and their philosophy is underpinned very much by a different world view, a Maori world view.

¹³⁴ At the time of my visit, every single State Government was Labour led, while the Federal Government was Conservative

¹³⁵ Te Kohanga Reo literally means 'language nest' and is a pre-school offer to Maori and other children where interaction takes place in te reo Maori [the Maori language]. It was introduced in 1982. Subsequently it has been followed up by the kura kaupapa schools, which are schools built on 'Maori philosophy and principles' (Bishop and Glynn 2003: 61).

¹³⁶ See www.nzei.org.nz Accessed on July 7th 2005.

Readiness to meet the wishes of particular iwi was not only expressed in policy documents and realities within schools, but was also asserted at a very fundamental level by MP, working in the Ministry, who referred to it as an obligation ultimately springing from The Treaty of Waitangi. MP: [...] ‘What drives all of this is te Tiriti o Waitangi. We as the Crown – what is our responsiveness to the Treaty? That’s what really drives it. And from the Treaty comes out legislation’. Again, the Treaty is an important factor when explaining different levels of interaction between the Indigenous and mainstream groups of Western Australia and New Zealand, at least at a structural level.

The second coding category from interview data, ‘decision-making and influence’, is included because it in itself is a way of illustrating possible deliberative processes. Again, data is coloured by the position of respondents; but while JH may be particularly harsh in his statements about a lack of flexibility within the Ministry of Education, where he had previously worked, the idea of ‘trying to fit a square peg into a round hole’ does resonate with other evidence.

JH: [...] And one of the issues I kept getting feed back from [...] my executive director, was always ‘Jim, stick within policy’. And I kept coming back saying ‘Yeah, but policy isn’t working here’. I mean, we are talking about a group where English isn’t the first language and where parents have different aspirations for their children, they therefore want to be involved in tailoring of the education to suit their kids’ needs. It just didn’t work trying to fit a square peg into a round hole.

JH readily acknowledged that the government system *was* trying to allow for more flexibility in the form of local devolution and greater parent involvement. Nevertheless, he felt that these measure were not nearly taken far enough.

JH: [...] Government schools are *trying* to emulate the independent system via local devolution and decision-making. But they will not deal with the fundamental issues of policy, because I think they are fundamentally frightened that schools will be taken over by left-wing hoodlams who will direct the school down the pathway of hippy-ism or something like that! And the standards will begin to decline. *My* experience was the opposite. That parents involved in decision-making roles actually aspire to great things for their kids.

Judging from interview data as well as from policy documents, the WA Government system was trying to do *something*, but it is questionable whether it was the right thing in terms of securing an inclusive future for the educational sector within the state. RS told about a number of measures to ensure greater parent involvement (and thereby retention of Aboriginal children) within schools. However, these measures seem rather

‘mechanistic’, to throw one of his own terms back at him; and he veered off my follow-up question about quality versus quantity measures.

RS: [...] There are *huge* mechanisms [to ensure parent participation] that are there, and we *measure* them. We want to see how many Aboriginal people are on decision-making groups, we have particular councils and groups that *must* be established, every school *must* have a plan that looks at Aboriginal education within their school plan. Every teacher must undergo cultural awareness training, compulsorily, to ensure that the system is more pro-active in its approach to getting Aboriginal parents involved, but also getting Aboriginal kids through the system.

Contrasting sharply with the impression from WA, the following statement by one of the people in the group of five from NZEI reflects a basic attitude towards possibilities for influence that fundamentally differs from the starting point in WA. TH: ‘I think that [...] the issue about why do we participate? Why do Maori participate? And I think that Maori participate because they have an *expectation*’. The following examples from other people working at NZEI back up the suggestion that in New Zealand the idea of specific Maori influence on educational policies was not just wishful thinking.

SA: [...] I can give you an example: in assessment for example [...], there has been a drive in primary schools for compulsory assessment. Well, Maori have been quite outspoken about how disadvantaged they are or have been shown to be through the ways of assessment. Because they are all sort of Pakeha type tools and a particular way of doing things [...] we have been able to hold back some of the excesses of the Government on the basis that it is not inclusive, it disadvantages Maori in schools and it continues a spiral of decline for them instead of enhancing.

SD: I was just going to add – you were talking about earlier grass roots versus policy driven change, and I was just thinking that an example that popped into my head was during the 80s, the introduction of Kohanga reo into New Zealand - early childhood Maori education. And that was really grass roots driven, the Government didn’t have a lot of influence or control over that. And you can almost see it slipping under their radar because they thought ‘it is only Maori, and it is only early childhood education’. And it was so successful that it has been built upon in kura kaupapa Maori education.

‘Slipping under the radar’ is not good deliberative practice judged by normative ideals of making one’s standpoint available for public scrutiny; rather it suggests a tactical approach to obtaining impact on educational policies. Nevertheless, such success stories¹³⁷ may exert a positive influence on future interest in partaking in cooperation with government when developing policy initiatives. Based on comments from MP from the Ministry, interest in developing joint initiatives between the Ministry and iwi groups was indeed mutual. Speaking about the three or four years of preparation that

¹³⁷ ‘Success’ both in the sense of having an interest converted into a political decision, but also success in the sense that ‘The success of the language nests [Te Kohanga Reo] has been phenomenal’ (Bishop and Glynn 2003: 74).

went into setting up the Pouwhakataki group, he told about a procedure that certainly appears to be built on dialogue, even if his way of talking - using direct speech references - may be a result of his idiomatic use of the English language.

MP: [...] What the Ministry did is it went around and went to tribal groups in New Zealand and said 'what is it the Ministry can do to help you?' And one of the greatest frustrations was in dealing with the bureaucrats or dealing with the school system. And they said 'if only we could have somebody that can talk to us in our language, what it means in terms of a board of trustees, what are their roles and functions? If somebody could also tell us in terms of the best education for my daughter or for my son. If we can only have someone when I have a problem with the school, the teachers, where I feel it is not teaching my child correctly. Or if there is problem with the administration, if only we can have somebody who can help us to explain and push it through the process'.

Such a statement (which is supported by evidence from a variety of Ministry publications) contributes to the broader picture of a Ministry that does indeed use its radar, even if people at NZEI in some instances feel that they are able to slip in something underneath it. However, not all respondents concurred with the impression that the educational policies of New Zealand were the product of dialogic interaction between Maori interests and the Ministry. LP probably points to an important factor when arguing that Maori can thank themselves and their level of organisation for a lot of their successes within the educational system.

LP: [...] it hasn't been because we have persuaded the powers that be to think our way. It has really been because we've confronted them with the issues and organised and been prepared in some instance to take legal – well, *illegal* action really. You know, things are getting really, really serious when people are prepared to take illegal action [in reference to parents withdrawing their children from state schools].

Speaking generally about the level of interaction between the population groups over the last couple of decades, she also remarked that 'it wasn't a case of us presenting such compelling arguments the majority decided to change their mind, that's *absolutely* not how I see it – and this is a personal view. It has changed because they were *made* to change it, they didn't have a choice really'. So while there is little doubt that Maori exert greater influence when educational policies are developed in New Zealand than Aboriginals do in WA, it is too hasty a conclusion to draw to say that this is because deliberative mechanisms are in place in NZ. It is also very probable that the relative sizes of the two minority groups play a large role here. But there is no doubt that the NZ Ministry of Education is geared to include iwi points of view in their planning in a much more direct way than is the case in Western Australia, where the curriculum *has*

been developed with Aboriginal input, but input by those people who themselves have taken action to be heard and come forward. In this regard, the input-seeking approach by the NZ Ministry of Education, where they focus on paying visits to iwi and tailor individual solutions, is rather innovative.

Fittingly, the next category in the analysis is ‘contact and trust’, and here there is no doubt – neither by the Ministry’s man RS, nor by JH from the independent system – that especially trust is what is lacking sorely within the WA educational sector in terms of including Aboriginal students and their parents in the governmental education system. JH explained the existence of the AICS schools as being partly a product of lack of contact with and trust in the government system: ‘[...] And I think that schools like this are in some ways an exhibition of the frustration that people have had in trying to work with the government system’. He also spoke more directly about suspicion.

JH: [...] I didn’t understand much about the way the independent system worked *at all* before I came here. And I think it is a vice versa. So there is this suspicion I suppose. [...] Because the Government is suspicious of the independent, because they are losing kids to independents. I think the independent are suspicious of the government system, because they think they are doing better anyway. Which is a pity, because I think both can take from each other and learn from each other.

Referring to historic educational policies, which would not have taken any account whatsoever of creating trust in the Aboriginal community, RS put some of the problems within the education sector down to these policies and the remembrance of them by the parents and grandparents of the present generation of Aboriginal school children.

RS: [...] Now, schooling in WA for Aboriginal people commenced in 1965, compulsorily. So it is *really*, we’ve only been doing it for 40 odd years. Prior to that it was done by the missions and it was not compulsory schooling [...]. Unfortunately, people at my age, between 45 and 50, have had a range of experiences with school, most of which were not desirable, were not good experiences. So consequently *their* kids, they are actually not quite willing for their kids to stay at school. [...//...] I mean, most Aboriginal people see Government as – In WA, the Government took kids away, as you are well aware of, so most Aboriginal people see school as the frontline still, really that school is going to take their kids away. So that in itself is a difficulty that we have. But getting parents to understand why school is there, to trust school teachers.

Even if the goal of an inclusive educational system, where also Aboriginal parents and students will trust the system, seems a long way off in WA, initiatives by the NZ Ministry of Education proves that things can be changed – but also that the job never will be quite finished. Specific programs like the Pouwhakataki group may solve a certain set of both practical and also more trust related problems, but it also seems to be

the case that an entire attitude change is needed. A recipe for how this is going to come about is hardly available, but a hint may be found in SA's comment on how things have changed within an organisation like NZEI in terms of making the organisation more inclusive of Maori viewpoints, rather than 'merely' influencing government policy on behalf of Maori. SA: '[...] Once upon a time I can remember, where anything – you *always* went to Maori for your answers [...], and now Maori are saying '*you*'ve got to think this through, you have got to provide the answers for yourself'. Inclusivity is thus to be regarded not only as the problem of the minority group, but as an issue to be tackled broadly within the organisation according to the people from NZEI – and this principle could be extended to the entire society. At least according to LP, this is an attitude change that has to some extent occurred generally within the New Zealand educational system.

LP: [...] So in general education schools today, there would be very few state and integrated schools where you didn't have some basic form of te reo being spoken or being taught to the children, where their songs or their culture would be included in some form or another. And it will differ from one school to the other in terms of the substance of what is taught and shared in classes, because very much it depends on the confidence and competence of the teacher – and on an attitude change.

Some things, however, are best left to Aboriginal people themselves, according to respondents from WA. JH clearly felt that in some instances the Department of Education showed a blatant lack of cultural sensitivity when it came to Aboriginal matters – giving the following poignant example of a book which he only let me see the cover of, as it was clearly his opinion that it ought not be showed to me.

JH: [...] I have a copy of a book that was produced about 10 years ago [...]. It was never issued. No one knows exactly why this book was produced. This is an Education Department publication [...]. No one can look at it, because there are sacred photos in here! There is deceased people for starters, and there are a number of photographs that are sacred to Aboriginals. [...] The Department is not anthropologists. The Department should just have stuck to what it is meant to do.

While RS did speak about an inclusive educational environment, he was also of the opinion that certain Aboriginal practices are best taught outside the school system, in the bush. This was a viewpoint supported by practices at CAPS Coolgardie, where a group of Aboriginal parents taught the children about Aboriginal culture and environmental issues under the banner of 'bush rangers', which in the words of JH was meant to teach the children to 'tread lightly on the planet'.

RS: I think, one of the things we have to be clear about here is that – I am an Aboriginal person myself – if you want to learn about my culture, I'll take you out in the bush and I will show you what my culture is all about. Because that is where you are going to learn. But if Aboriginal kids are going to learn about Western culture, which they *must* do, they have to do it in the same environment as non-Aboriginal kids are doing it, and that is in the schooling environment. What we have to do, is to make that schooling environment as inclusive of Aboriginal kids as possible. Because what we've found is that that learning environment is not that inclusive. Now, to be able to do that, we *have* to ensure that there is an Aboriginal voice in the education process, that we, that departments and schools consult appropriately and get Aboriginal people involved.

Getting Aboriginal people involved is expedient if a deliberative goal of exposing children to various life experiences and thereby being able to conduct themselves in a diverse democratic society is to be reached. It makes little difference whether certain cultural aspects are perhaps not really appropriate subjects to be taught in a class setting by an ordinary teacher – inclusivity may take different forms in different contexts.

Apart from comments by interviewees involved one way or another in the educational system of WA or New Zealand, several other respondents made comments pertaining to the role of the educational system in exposing people to various life experiences and thereby better equipping them to partake in dialogue with various parties about interests and preferences. In particular, CH from ATSIC's WA branch told about their keen interest in the area. As ATSIC had already been politically stricken from the agenda at the time of our conversation, ideas expressed here will not have been carried through – at least not by ATSIC. Nevertheless, her comments are interesting, because they show awareness of the potential inherent in the educational system for accommodating regional preferences for example surrounding the teaching of Aboriginal languages – a familiar echo of NZ Ministry of Education practices, as well as the above debate about whether certain subjects are perhaps best taught outside the framework of schools.

CH: [...] Some of the stuff that we have been working on for a little while is how in the education system [...] you get particular standards that are givens, but still allow for the regional variation, like in community X we want our kids to learn our local language. And even within that, community X1 wants the language taught in school, community X2 wants the kids to learn language, but they want to do it themselves.

Apart from CH's wish for an inclusive educational system in terms of allowing for flexibility in what is being taught and the way teaching is delivered, it was also a commonly expressed opinion by interviewees in both settings that history teaching about the colonisation of Australia and New Zealand was inadequate. The following

statements are by respectively a retired government employee from NZ and an academic from WA.

ME: [...] But on the whole there has been a maturing of the population. New Zealand history is still not well understood, though, by the general population. And the education system still has a long way to go in telling a different sort of story about the development of this country.

SM: [...] And even now, the education in Australia is still focusing on – while there is a lot more exposure to the crimes of colonisation, the dispossession, the theft of children, splitting up of families, all of that – [...] the political status is still missing in the education.

Viewing the educational system as an inherently important aspect in assessing deliberative practices within a democratic society was from the outset part of the design plan for this entire project. Hence, the conclusion that it is indeed important, is a circular argument. Yet, even if this subsection has in this respect travelled full circle, it is fair to conclude that new information has also been added in the process about exactly how and to what extent the educational system makes this contribution. Relating to the question of ‘how’, it is interesting to note that formulations in the curricula for both settings point to an awareness of educating future citizens who should ideally be able to conduct themselves in societies with people holding a variety of beliefs and preferences. Relating to the question of ‘extent’, the marked difference between the relative successes of the governmental education systems points to what might potentially be damaging implications for the level of inclusivity within the Western Australian educational system. Risking a split between the well-off and children whose parents for various reasons do not endorse government schooling and then ‘the residue’, does not bode well for a system which professes to aim for educating all children to become ‘active citizens’ and be able to engage profitably with people of other values and preferences.

Further on the question of ‘extent’, evidence shows that particularly the New Zealand Ministry of Education has been, and continues to be, very open to trial new models of education and listen to the needs and wishes of different parental groups and their school children. This does not mean that control is relinquished, but rather that diverging interests are kept within range of the Ministry’s working. Whether one wishes to interpret this as ‘control’, or merely as an effort to span widely, is probably a question of temperament. In the words of one respondent commenting on te kohanga reo.

ME: Well, kohanga reo started off as a break-away movement and an ethic to try and foster Maori language. [...] But now it has become integrated into the system, and it gets government funding and all the rest of it. [...] by meeting certain criteria they can access educational funding, and that of course brings them into the system, and they get assessed alongside every other institute of like kind.

As LP pointed out above, Maori parents were at one point taking *illegal action* and removing their children into Maori language immersion schools. Now those schools under the kaupapa Maori ideology have become a separate branch within the governmental system. However, in the words of Bishop and Glynn ‘... Kaupapa Maori is a discourse that has emerged and is legitimated *from within* the Maori community. Kaupapa Maori assumes the taken-for-granted social, political, historical, intellectual and cultural legitimacy of Maori people, in that it is a position where ‘Maori language, culture, knowledge and values are accepted in their own right’ (Smith 1992¹³⁸)’ (Bishop and Glynn 2003: 63, my emphasis). The words ‘from within’ have been emphasised in this quote, because even if the kura kaupapa schools now sort under the Ministry, they still ultimately spring from Maori interest, and can therefore be regarded as proof of the Ministry’s willingness to enter into dialogue with Maori. Fleras and Spoonley cite exactly the kura kaupapa schools as an instance of tino rangatiratanga in practice¹³⁹ - as promised to Maori in the Treaty of Waitangi. They conclude, ‘...in securing a pattern of constructive engagement that sharply curbs state jurisdiction while enhancing Maori models of self-determination, kura kaupapa Maori serves notice that rangatiratanga rights are not to be taken lightly in post-colonising Aotearoa’ (Fleras and Spoonley 1999: 37).

There is no question about the fact that the Treaty of Waitangi heavily influences Crown/Maori relations in New Zealand, and that the Aboriginal people of Western Australia cannot refer to a historic document that should protect their interests within for example education. This deficit, however, hardly precludes the possibility of ‘securing a pattern of constructive engagement’, provided genuine interest really exists. Both the lack of a treaty as well as the historical suspicion towards any government

¹³⁸ The reference is to Smith, G.H. (1992). ‘Tane-nui-a-rangi’s legacy...propping up the sky: Kaupapa Maori as resistance and intervention’. A paper presented at the New Zealand Association for Research in Education/Australia Association for Research in Education joint conference. Australia: Deakin University. November.

¹³⁹ (Fleras and Spoonley 1999: 31-37), subchapter entitled ‘Tino rangatiratanga in practice: kura kaupapa Maori’.

agency, pointed to by RS, adversely impact on Aboriginal abilities to make the most of the educational system in terms of securing themselves a place within deliberating practices.

Chapter 14: Analytic synthesis and comparison

This chapter has a twofold purpose: firstly, to sum up analytic conclusions reached in Part III; and secondly, to give a joint overview of the extent of deliberative practices in each setting under investigation. Part III was organised as a running comparison of data from Western Australia and New Zealand based on analytic categories ordered according to the logic of *interest*, *access*, *opportunity*, and *ability* to debate, a logic which was based on the theoretical considerations presented in Part I. This chapter, on the other hand, will be based on a ‘geographical’ reasoning, namely the reasoning lying behind the decision to do a comparative study (see chapter 8). Therefore, there will be two parts to this chapter: One containing an overview of data on the state of deliberation in Western Australia, and one on New Zealand.

14.1 Overview: The state of deliberation in Western Australia

Some respondents, and other people spoken to about the research topic, expressed the notion that New Zealand was at a more advanced stage concerning the level of inclusion of its Indigenous population in decision-making procedures. Several seemed to imply an almost evolutionary view on the topic, making statements along the line that Australia ‘needed to catch up’¹⁴⁰. This is *not* the picture revealed by the data analysis in Part III. The picture is far more muddled.

Based on certain socio-economic indicators, the Aboriginal population in Western Australia is by some standards worse off than most Maori people in New Zealand. However, the specific topic of investigation was to what extent one can argue that ongoing processes of interaction between the Aboriginal and mainstream population in Western Australia conform with a notion of deliberative democracy. The conclusion to be drawn from data – with all its limitations – is that the Government of Western Australia and individual actors show a considerable level of innovation in terms of being inclusive of Aboriginal interests in decision-making processes.

¹⁴⁰ It should be stressed that this was often expressed by respondents and other contacts with an *academic* background, for example WT and SM from Western Australia, and AH and BR from New Zealand. Many informal conversations with Australian academics revealed the same attitude, whereas it hardly is a generally held attitude among the Australian population.

This does not in itself ensure an equitable outcome, and while Western Australian actors score high on some of the qualitative indicators developed in the analysis, other aspects are less impressive and potentially detrimental to healthy debates. Starting with the first theoretical variable of *interest*, the analysis focused on whether various groups in Western Australia show an interest in participating in debates. The series of Consulting Citizens guides developed between April 2002 and March 2004 by the Government of Western Australia is a forceful indicator that the WA Government *is* very interested in drawing various groups into decision-making processes, both Aboriginal and other interest groups. The first of these guides even specifically mentions theories of deliberative democracy¹⁴¹. There may be differences between saying and doing, but there is at least an articulated interest in drawing Aboriginal groups into decision-making processes on issues affecting their lives. And while many respondents from various government departments may have an interest in appearing to be consultative, the great number of practical examples related by them attest to a high level of attention to the issue; as does the Statement of Commitment between the Government and ATSIC (see appendix e).

The question is whether this is a mutual interest shared by Aboriginal people and organisations. Here the answer is less clear. On the one hand, several Aboriginal groupings do have regular encounters with government representatives and decision-makers, and respondents had many stories about both individual and organisational contacts. Chapter 10 argued that such contacts by Aboriginal people and groups might often be initiated out of a hope to gain something; in the case of SWALSC in Western Australia for example to gain rights of access to land and nature resources, or to prevent mining on sacred sites. Such grounds for participating in dialogue are quite utilitarianistic and less about ensuring an ideal of deliberation among interested stakeholders. Nevertheless, they are still instances of dialogues in which actors can articulate and voice concerns and interests. Some Aboriginal communities, on the other hand, show no interest in regular interaction with government and have ensured a high degree of self-determination for themselves in remote communities. Furthermore, some Aboriginal communities have decided to set up their own schools, which is a gesture that suggests lack of dialogue; although a certain level of interaction necessarily occurred.

¹⁴¹ (The Government of Western Australia, April 2002: 5).

Proceeding to the question of *access* to debates, several empirical indicators were considered when describing to what extent interested parties were able to access the arenas for debate and decision-making and have their viewpoints heard, as well as listen to those of others. The first indicator was the question of institutional structures, where the conclusion was that 'structural issues of accessibility are ignored at the peril of efficient communication and voicing of concerns'. Specifically within the Western Australian context, the role of ATSIC was debated at length, which despite its pending demise (or because of it) highlighted questions of institutional engineering. Interestingly, the two ATSIC representatives interviewed both expressed the view that concerning Aboriginal involvement, there was a need for innovation, in the sense that European derived notions of authority did not easily translate into an Aboriginal context. Thus much was made in the media of the failure of ATSIC elections to attract voters, and both opponents and proponents of the ATSIC system acknowledged a certain degree of legitimisation crisis. One possible solution was to look at traditional Aboriginal authority structures, which are emphatically not built upon the idea of voting. While not all would agree on this issue, and there certainly are grounds for remaining sceptical about for example the level of inclusion of women and young persons, the Nyoongar interest organisation SWALSC reported to have very good experiences building organisational structures on the basis of families and traditional authority structures within the Nyoongar tribe.

Such structures may not be easily translated to other organisations. But it highlights the fact that care and consideration need to be given to how institutions are designed to facilitate access for minority viewpoints to be expressed. In extension of this, the fact that Australia is a federation of states impacts on these institutional structures. While it is almost a given that state government employees should complain about undue meddling in their affairs from federal level, it does seem that the federal structure of ATSIC was from the outset ill suited to handle Aboriginal interest at community level in cooperation with state governments. While Perth is by many standards far away from Canberra, Punmu or Fitzroy Crossing¹⁴² is even further out.

Skocpol et al. (2000) argue that organisational structures to a high degree reflect national political structures. But in the case of Western Australia (as well as New

¹⁴² Small regional centres, inhabited largely by Aboriginals.

Zealand), this does not really hold true, because data points to a great deal of structural innovation going on within various organisations. On the other hand, the fact that ATSIC was a federal body obviously *was* a reflection of the national political structure of Australia. At the beginning of the Australian federation in 1901, Aboriginal affairs lay outside of the legislative authority of the Federal Government, and was left entirely in the hands of states. Many atrocities were committed, and transferring more power to Federal Government within this area was a way of protecting Aboriginal rights throughout the 20th century. This might be one explanation for creating a federal body like ATSIC. But data unequivocally points to a need for cultural accommodation when creating such structures – this would not necessarily mean relying on family representatives, but rather taking into consideration that Aboriginal culture in Australia is extremely diverse, and that one size may not fit all. In fact, many respondents suggested that cooperation between the Government of Western Australia and ATSIC's WA branch was running more smoothly than in some other states¹⁴³. Aboriginal cultures differ, and so do states, evidenced by the fact that so many respondents in WA referred to what was termed 'physical location and distance'. The geographic and demographic contingencies of Western Australia make a big difference for the level of access to decision-making arenas in comparison with New Zealand.

Questions of access were also analysed in relation to systemic openness and transparency. The former was defined as institutional relations with the media, where data showed that respondents were keen on cultivating such relations, although often felt frustrated about the issue. Data suggested that socio-economic factors might make themselves felt here, in the sense that Aboriginal access to eg. written news and the internet was considered limited. Transparency was defined as more direct relations between the decision-making arenas and the (Aboriginal) population. Here examples of direct interaction between government representatives and Aboriginals were debated, as was the question of creating trust. In this connection, there appeared to be some

¹⁴³ An interesting discussion of how federalism impacts on land settlement processes in Australia and Canada can be found in Scholtz. She, among other things, argues that the federal structure in both these countries may have speeded up negotiation processes, because the Federal Government in both cases has held jurisdiction over particular areas of land in which to implement new policies (respectively Northern Territory and Northwest Territory). 'In the histories of the two countries, the only forays into a negotiation policy by governments not in direct response to catalytic court decisions were in areas where no provinces existed so the federal governments could not run afoul of intergovernmental relations' (Scholtz, date of publication unknown: 6/7). Quoted by permission from the author.

confusion about best practices, as well as a lack of knowledge about Aboriginal custom and language, which seemed to provide a barrier for fruitful interaction. In comparison with data from New Zealand, it was also very remarkable how few respondents from Western Australia brought up the issue of trust on their own initiative, and those who did debate the question mostly referred to historical factors as preventing improvement. At issue here would also be the fact that there are so few Aboriginals in Western Australia in comparison with the number of Maori in New Zealand, which would make for less 'mainstream interaction' to break down stereotypes of 'stolen cars and drunks in parks', as one respondent put it.

The last topic debated under the heading of access was whether a variety in form and content of the media would influence levels of access to debates. The answer was unequivocally yes, and again issues of distance had an impact in Western Australia, in the sense that remoteness from the metropolitan centre appeared to influence media consumption. Another special factor to consider was the fact that there is only *one* major daily newspaper in the state - besides newspapers produced in other states, with few local news and on sale at a much higher price.

The theoretical variable of *opportunity* was also investigated using various data categories. These were organised under two headings, namely the question of whether there are occasions for individuals to partake in debates, and conversely whether the collectivity shows interest in following debates. Again, the Consulting Citizens guides should be highlighted in this connection, because they attest to the potential for individual and group input into political decision-making processes in the state. Interview data also suggested that consultation practices were, at least to some extent, in place within many areas of policy-making, although as one respondent put it, interventions 'from Mars' could never be entirely ruled out. Nevertheless, the guidelines particularly in the second Consulting Citizens guide can be viewed as a recipe for greater citizen involvement. To the extent that this is an example of proactive rather than reactive citizen involvement, it bodes well for the opportunity for citizens in WA to be able to express points of view.

In extension of this, it also appeared from data that (parts of) the collectivity does show interest in following debates¹⁴⁴, and that sometimes debates may even be raised outside of the political arenas and amalgamate with them. An example here would be how The Aboriginal Independent Newspaper caused the issue of homelessness to be debated in State Parliament. This does not preclude the possibility that large parts of the collectivity show no interest in debates. Yet, arguably the mere fact that Aboriginal stories were considered newsworthy attests to a certain level of interest. However, in New Zealand, Maori news figured much more prominently in the mediascape.

The last theoretical variable discussed in the analysis was the question of *ability* to debate. This topic was discussed under various headings, the first of these springing partly from reservations in the theoretical considerations in Part I, and partly from the field of investigation itself. In the presentation of Habermas' theory (chapter 5), it was argued that he places rather high requirements on the rationality of individual stakeholders, and that certain skills are needed to take part in dialogue. Therefore, it was no surprise that the educational background and personal skills of actors was a factor stressed by respondents. What was a surprise, however, was the emphasis also put on the ethnic and family background of actors as a qualifying trait when debating. This means that initial scepticism about *everybody's* ability to introduce and problematise claims was well founded, and even more obstacles appeared in the field than one would expect from theory.

A related issue was the question of legitimacy and authority, and who spoke for whom in deliberating processes. In comparison with New Zealand, Western Australia still lagged behind on this point, in the sense that while being an acknowledged problem by certain representatives, no solution seemed within immediate reach. Voting mechanisms in ATSIC clearly had little going for them, but there was no clear cut answer exactly how to remedy this. While the precise workings of the new OIPC structure have not been investigated, it appears to offer no solution to this question. To have a governmental organisation opt for a family based representational structure like

¹⁴⁴ As no quantitative evidence has been collected on this point, this conclusion is based on qualitative evidence about feed-back to journalists as a proxy measure for interest in following debates. Because people without interest will provide no feed-back, the claim to interest can only cover *parts of* the collectivity.

the one utilised by SWALSC may not be an easy option either. Here the comparison with New Zealand shows that *imposing* organisational structures on tribes and reviewing mandates by government may be a hard-nosed way of doing things, but to a great extent it has worked - at least in New Zealand.

In developing the analytic tools in chapter 7, it was suggested that both media and educational institutions might contribute to people's abilities to partake in debates, in terms of exposing them to various life experiences and thereby possibly better equip them to understand other people's arguments. In the case of media in WA, the de facto monopoly on written news by The West may be an impediment to this development. Alternatives do exist, and could potentially play a great educational role, for example with Goolarri media educating future media workers and Perth Indymedia encouraging users to contribute to debates. Developments were partly impeded, however, by structural and socio-economic factors such as lack of access to internet and newspapers.

The very last parameter in the analysis was to look at how the WA educational system might foster the population's abilities to partake in debates. The WA Curriculum Framework was considered at length, and it contains some very interesting - and from a deliberative perspective also promising - provisions for citizenship education and fostering student abilities to debate and reach understandings of different life perspectives. Despite all the grand words and ideas in the curriculum, however, the WA educational system is divided between the private and public sector, impeding efforts to expose students to different life experiences. Another factor, pointed out by one respondent, was the Department of Education's unwillingness to part from established policy. Definite conclusions cannot be drawn on such limited evidence, but based on a comparison of ministerial publications from WA and New Zealand, the New Zealand counterpart shows more active interest in tailoring specific solutions to meet different educational needs. Thus, overall, the policy document from WA shows great potential for developing deliberating citizens; but the question remains whether this potential is being translated into reality in schools.

This last example is arguably symptomatic for the state of deliberation in WA. There is no doubt that the Government of Western Australia was very aware of potential benefits from greater citizen involvement in decision-making processes, and many policies and procedures were in place to promote this. It was, however, a top-down

approach, in the sense that citizens – and especially Aboriginal citizens – might not be endowed with the right opportunities and abilities to take advantage of these possibilities. The tentative conclusion would be that it would pay off to provide more attention to Aboriginal access to media, have clearer access structures in place in terms of departmental contacts, and consider more specifically which mechanisms might impede adequate Aboriginal levels of input.

14.2 Overview: The state of deliberation in New Zealand

When viewed from a European perspective, New Zealand may seem hardly distinguishable from Australia. Closer up, local reactions were often that it was a comparison of apples and oranges. Getting down to the details of the analytic categories, it is striking that while many empirical differences exist, the factors that were judged important for a successful deliberative outcome were often quite similar.

Starting with the question of *access* to debates, data showed that a great deal of attention had been given in New Zealand to creating institutional structures that would accommodate debates about Maori/Crown interests. The land settlement process in New Zealand is rather special, in that it springs from a particular set of historical contingencies. Nevertheless, this process has had a positive spill-over effect in terms of creating acknowledged representational structures, which have facilitated Government/Maori interaction on many issues besides claims settlement. Despite the fact that these structures were *imposed* from above, and despite local city councils having been *ordered* to interact with iwi representatives, the long term outcome and experiences were overall positive. The initiative to create such institutional structures also attests to an established interest on the behalf of both parties to engage in dialogue. Participation in this dialogue may be based on a somewhat utilitarian reasoning on the part of Maori tribes ('what is in it for us?'), but nevertheless many stories about positive outcomes and experiences were told.

Concerning the complementary notions of systemic openness and transparency, chapters 11.2 and 11.3 demonstrated that both these issues were discussed less in New Zealand than in WA, and appeared to be such established parts of departmental routines that they were hardly debated. It seemed almost a given in New Zealand that

government departments should cultivate relations with the media and otherwise be open about their work. Concerning transparency and more direct relations with Maori representatives, this was also a topic less debated and more routinely practiced in New Zealand in comparison with WA. The conclusion was that it was easier for New Zealand Government representatives to learn about the ways of the marae and possibly also speak te reo Maori than it would be for WA Government representatives to interact with a wide array of people with different cultural traditions and languages. A temporal argument also exists, namely that New Zealand Government representatives have had to deal with Maori citizens since the beginning of the nation's life, whereas Aboriginals only became Australian citizens in 1968¹⁴⁵. However, all the relative success in New Zealand cannot be attributed to such extra-deliberative factors. Data showed a remarkable difference on the issue of trust; this being a concept readily brought up and debated by respondents in New Zealand, where it clearly was part of a general awareness – which did not appear to be the case in WA.

The last parameter in the analysis of access asked whether variety in form and content within the media impacted on the accessibility of debates. While the obvious answer is yes, it is less obvious that the mediascape in New Zealand should be much more varied than its WA counterpart. It is unlikely that anyone in New Zealand would argue that producing alternative news stories was an easy feat, but the amount of both mainstream and alternative news sources was considerably greater here than in WA. Furthermore, 'Maori news' figured more prominently within mainstream media than their Indigenous counterparts did in WA. One respondent complained about too little 'cross-pollination' between mainstream and alternative media, but both types were readily accessible, also if one did not wish to get up at 6.24am to listen to the Maori News on Radio NZ.

The next part of the analysis concerned *opportunity* to partake in debates. On the question of whether individual opportunity to partake in debates existed, interview data was rather similar from both fields of investigation, and it appeared that government representatives would actively seek input to policies. The WA Government had developed a set of guidelines about consultative practices, whereas in New Zealand there was a whole ministry, namely The Ministry of Maori Development or Te Puni

¹⁴⁵ A premiss in this argument is that the status of citizenship imposes greater demands for legitimation towards the group.

Kokiri, set up to review policies to ensure sufficient account had been taken of Maori wishes and interests. The difference may spring from a coincidence in what type of data was obtained, but it is remarkable that the WA Government had a very *proactive* approach to the question of creating opportunity for citizen input, whereas the New Zealand data in this case is best described as a *reactive* measure.

Concerning opportunity, the analysis also asked whether the wider public in New Zealand shows any interest in following debates – in this case about Maori rights and influence. Using media attention as a proxy for this, the answer is yes. Media attention to Maori affairs was considerably greater in New Zealand than in Western Australia, also within mainstream media. While one respondent complained that media and politicians often presented Maori rights as a zero sum game, even such an approach would create debate.

The last part in the analysis concerned itself with questions of *ability* to debate, including the role of participants' educational and family background. As in WA, the ability to debate was linked both with the educational background of individuals, but also with their whakapapa, or family relations. Therefore, equal ability to debate was not present, and neither was it something that could be improved solely by further education. This means that there are reasons to be sceptical about whether the theoretical requirement that everybody can introduce and problematise claims was met.

A related topic concerned issues of legitimacy and representation as impacting on the ability to debate. A great deal of emphasis was put on the family background of Maori representatives – even to the point of one tribal representative arguing that a distinguished educational background could be detrimental for a potential tribal representative, in the sense that it might create suspicion. The review procedure by OTS in terms of evaluating 'mandated representatives' does not look into election criteria for representatives, but only seeks to ensure that everybody with a legitimate interest in the issue has been given the chance to have their opinions heard, 'legitimate interest' in practice often meaning tribal affiliation. But even if data suggests a less than democratic emphasis on endowment, compared to Western Australia, questions of legitimacy and representation for the Indigenous population were much more articulated in New Zealand, and solutions that would accommodate various cultural and political needs were actively being sought.

The two last parameters in the analysis were to what extent the media and educational systems were conducive to exposing the population to various life experiences, and thereby potentially alert them to alternative viewpoints. On the question of media, the mediascape in New Zealand was much more varied than in WA, and even mainstream media in New Zealand included a much higher exposure to Maori news than their WA counterparts did to Aboriginal news. This may mainly be due to the comparatively greater number of Maori; but either way, stories about Maori interests (although not always viewed from a Maori perspective) were an indisputable part of the mediascape in New Zealand.

On the measure of whether the New Zealand educational system contributed to exposing students, and thereby citizens, to various life experiences, the comparison with WA is not entirely clear cut. On the one hand, the New Zealand curriculum is much less informative about for example how the 'social and co-operative skills' students should acquire are to be reached. On the other hand, the public education sector in New Zealand includes a much larger percentage of the overall student population, and therefore students will inherently be exposed to more varying life experiences than otherwise. Furthermore, the Ministry of Education in New Zealand is very active in seeking input especially from Maori communities about their wishes and ambitions for their children in the education system. This particular fact is very promising in terms of creating an educational system that will accommodate everyone, and thereby generally foster the population's ability to partake in debates.

On the whole, some of the main findings from New Zealand are that while interview data in many respects resembles that from WA, certain aspects of Maori inclusion are less controversial and more 'mundane' than in WA, and therefore appear to be subject to less explicit attention. The fact that New Zealand Government representatives have had to deal with Maori citizens for over one and a half century has an impact here. This is not the only explanatory factor, and neither should one be left with the impression that interaction is always running smoothly – in the words of one respondent 'there are certainly areas for improvement'. Even so, some of the New Zealand experiences with actively creating institutional structures through which interests and points of view can be expressed, go a long way in terms of securing profitable cooperation. Having the right structures in place in itself does not ensure a

good debate, but in comparison with WA, the existence of structures that were acknowledged both by the Crown and tribes seemed a definite plus. Conversely, an area in which New Zealand might learn something from the Western Australian Government would be in the latter's proactive approach to encourage government employees to seek citizen input to policy developments – something which was in fact practiced by New Zealand's Ministry of Education. However, there is also a balance to be achieved in terms of ensuring that individual tribes are not 'huid out'.

Part IV: In conclusion

This concluding part of the study contains two chapters; one evaluating results of the empirical analyses and another evaluating the application and usefulness of the theory of deliberative democracy in analysing engagement practices between Indigenous and mainstream groups in Western Australia and New Zealand. Chapter 15 is thus entitled ‘Enacting an ideal’, and evaluates to what extent evidence from the two settings in focus suggest an approximation to the ideal of deliberative democracy. Chapter 16 asks the further question whether and how the model of deliberative democracy is relevant in assessing empirical situations, and what, if anything, can be gained from applying normative theory to empirical cases.

Chapter 15: Enacting an ideal

The objective of this chapter is to conclude on the empirical aspects of this study. Following up on Part III, one pertinent question is ‘can the engagement practices for democratic decision-making between Indigenous and mainstream groups in Western Australia and New Zealand be regarded as enactments of an ideal?’. On a yes/no scale, the answer is No. In the words of a respondent from New Zealand, ‘[...] there are certainly areas for improvement in our system’. Few respondents, as well as few academics writing on the subject, would disagree with this observation.

However, if we instead of a yes/no scale were to assess the question on a scale of more or less, it is possible to point out which aspects of the engagement practices in each setting qualitatively function well, and which less so. The analysis in Part III has shown that there are areas for improvement in both settings, but it has also shown that in several particular instances government representatives, journalists, educators, and Indigenous representatives have positive and practical hands-on experience with what works and what does not work in terms of ensuring a healthy dialogue between parties of diverging interests.

Returning to the theoretical starting point for the development of a model for analysis of deliberative practices, the supporting principle has all along been Addis’ claim that there are three important spheres in society to investigate when looking at possibilities for developing deliberative democratic practices, those being the spheres of governance (Addis’ term is ‘law’¹⁴⁶), education, and media. Throughout the analysis, these spheres of deliberation have been regarded as supplementing each other within the empirical settings. But in the assessment of to what extent it is possible to speak about enacting an ideal, each sphere will be considered in turn. This is done for three reasons. First of all, such a systematisation of data will provide an overview from a new angle, and thus strengthen any conclusions drawn. Secondly, such an overview will give a picture of whether one of Addis’ suggested spheres is perhaps more or less important than the others, and it can also give an indication of whether there are other potentially important spheres of deliberation that should be included. Thirdly, it will provide a

¹⁴⁶ The difference between law and governance is more than a terminological difference – see chapter 8, footnote 27 and the first paragraph in section 15.1.

sharper focus in the comparison between the two settings, facilitating concrete suggestions for change within individual spheres in each setting.

15.1 The governance sphere

In terms of ‘enacting an ideal’, the most mixed picture emerging from data has been within the sphere of governance. There may be several reasons for this. First of all, there is simply more data from the governance sphere, because this is where most interviews were conducted and other evidence collected. Secondly, the governance sphere has deliberately been conceived very widely for this study. While Addis suggests that the sphere of importance would be ‘law’, focus in this study has been on the *dynamics* of interaction among societal groups, and therefore focus was on governance, instead of looking at already accomplished legal changes. Because of the emphasis on dynamics, the concept has been defined in broad terms to encompass not only governmental departments and ministries, but also instances of extra-governmental governance, such as for example that occurring within interest organisations or in city councils (see also chapter 8). Therefore, the fact that evidence within the sphere of governance in some instances points towards an approximation of the ideal of deliberative democracy, and in other instances points away from it, may be due to the scope and variety of data collected within this sphere.

However, methodological choices are not the only explanatory factor for the diversity of results within the sphere of governance. Another explanation is the phenomenon alluded to previously that sometimes one hand within government would not know what the other was doing. In the words of one respondent, ‘The whole of government stuff is a beast’. This is the most likely explanation for the spread of evidence within the governance sphere.

In the Western Australian case, one of the parameters indicating poor performance was on the question of creating trust between Government agencies and Aboriginal communities. The contrast with interview data from New Zealand was pronounced. Furthermore, in comparison with New Zealand, the Western Australian Government and many of the organisations working in the state could do well to take an encompassing debate about leadership and legitimacy structures – both as they pertain

to individual Aboriginal communities, but also what Government requirements for authorised leadership should be. While no easy solutions are available, interview data from for example SWALSC and ATSIC suggests several possible solutions. And even if the situation in New Zealand is not directly comparable due to demographic and historical differences, the Government of Western Australia and some of the organisations could learn a lot from studying experiences with mandating representatives and imposing city council representation in New Zealand.

These were some of the areas where data points to room for improvement in Western Australia. In other areas, however, the State Government did rather well in terms of attempting to be inclusive of Indigenous viewpoints and promote deliberation about political ends and means. Particularly the Consulting Citizens guides stand out, not only because they are very comprehensive and build on research about deliberative or inclusive democracy. But more because they are envisaged to be a comprehensive plan covering modes of interaction between *all* government agencies/employees and citizens/stakeholders. In fact, they are written in a way that provides inspiration also for private agencies interacting with citizens or stakeholders. While the existence of these policy documents in itself does not ensure enactment of the ideals expressed in them, the fact that they have been produced can be regarded as an enactment of an ideal. ‘The Public Sector Racism and Equality Program’ from the Office of Multicultural Interests also attests to interest in and efforts towards greater approximation to an ideal relationship with WA’s minority groups.

In comparison, the practice of having Te Puni Kokiri make policy reviews of already implemented policies to test whether they take account of Maori wishes and needs, is a less ideal approach to being inclusive of minority interests. While the knowledge that such reviews will be carried out may lead to preemptive inclusivity on the part of government agencies planning new policies, the Western Australian approach is much more proactive in its configuration. On this point, the New Zealand governance sphere could get inspiration from studying the Consulting Citizens guides. However, they need not even look as far as across the Tasman Sea, but could also do with studying policy development practices within their own Ministry of Education, which has an input seeking approach to interaction with Maori (and Pacific Islander) communities when developing education programs.

Developing a comprehensive set of consultation guidelines in New Zealand should be a relatively easy task, and its implementation is likely to be much easier than the case was in Western Australia, because interview evidence from New Zealand suggests that trust and legitimacy are much more established between governmental institutions and Maori communities than the case was in Western Australia. If a set of guidelines for consultation were implemented in New Zealand, it would also be easier to avoid the phenomenon of ‘hui-ing out’ Maori communities that are in some cases ‘*inundated* with requests for consultation by the government’.

While evidence summarised above gives a mixed picture of the level of inclusion of the Indigenous minorities in democratic decision-making in Western Australian and New Zealand, interview evidence containing narratives about individual experiences with successes or failures in consulting Indigenous people were remarkably similar from the two settings. The Maori concept of *kanohi ki te kanohi* is less unique than New Zealand respondents believe, as it was clearly the feeling in Western Australia as well that face to face interaction was more productive when engaging with Aboriginal communities. In Western Australia, however, this was not only a result of traditional cultural practices, but also the simple fact that many Aboriginal people do not read and write well enough to engage in written exchange with government departments about policies, and furthermore may have very limited access to newspapers and internet. Such practical obstacles can be overcome both by promoting access and using alternative ways of spreading information, such as radio. Western Australian respondents from the governance sphere showed great awareness of these contingencies, which enforces the conclusion that the greatest remaining obstacle to fruitful engagement is the pronounced lack of trust.

Some of the points above indicate that actors within the two settings could learn from each other and be inspired by each other’s practices. This is an interesting conclusion in its own right. However, another conclusion also springs from data within the governance sphere, namely that despite differences in written policy documents and guidelines, and despite differences in levels of trust and efforts towards legitimisation, individual respondents indicated similar behavioural patterns when engaging with Indigenous communities. Visiting Indigenous stakeholders in person, listening to their views and explaining policy developments appeared a more or less well-established

practice according to several respondents in both settings. Interaction may be more or less successful, interventions ‘from Mars’ cannot be ruled out, and complaints may arise; but, overall, data could easily serve as a source for compiling a guide for good commonsense consultation practices. Which suggests the conclusion that good consultation practices to a large extent come down to the attitude of individual employees within departments and organisations.

Furthering the enactment of a deliberative ideal would therefore to a large extent depend on micro-level encouragement to undertake such work. Such micro-level changes in attitudes among individual actors may be encouraged by macro-level initiatives such as the Consulting Citizens guides. A prerequisite for government employees to actually carry through their good intentions would be that their departmental heads support such an attitude change. In Western Australia, 300 people organised under the Institute of Public Administration Australia partook in a seminar on March 31st 2004 to not only hear about how to consult with Aboriginal citizens, but also take part in small workshops debating the questions ‘What do you think are keys to engaging well?’, and ‘What might stop you getting started?’¹⁴⁷. Similarly, while in the words of one New Zealand respondent ‘The argument about form and content is further down the track’, government agencies in this setting actually do set aside time to have consultations on marae, even if the welcome ceremony in each instance takes up to two hours. Attitude changes will not take place overnight, but giving them space to evolve is an important step in the right direction. And this process was well under way in both settings.

Of the three spheres of deliberation investigated in this study, the governance sphere seems most self-evidently of importance. However, one may ask whether Addis’ suggestion of ‘law’ would have been better or at least equally important to investigate. A focus on law would have entailed a greater focus on outcomes in the form of established policies. Such established policies have in fact been part of the analysis, but predominantly in terms of how they may or may not contribute to dynamic interaction. In this way, changing focus to governance instead of law has not precluded an interest in policy documents.

¹⁴⁷ For some of the material distributed during the seminar, see appendix j.

Greater focus on law and written policy documents could very well supplement the resulting analysis in interesting ways. However, this would match the choice to do a qualitative study poorly. This methodological choice may certainly be debated, but the *narratives* about processes of engagement between groups in society that have emerged through this approach could not have been obtained any other way - at least not in such personalised forms. And narratives of individual experiences with engagement practices offer good indication of what works and what does not work when attempting to accommodate minority rights and wishes in democratic societies. As pointed out in Part I, part of the problem with existing theories of minority rights is that they do not offer any practical guidelines for implementation. Therefore, a qualitative approach is well-warranted. And consequently, the area of 'law' has only marginal interest in comparison with 'governance'.

15.2 The education sphere

The most marked differences in data between Western Australia and New Zealand lie within the sphere of education. Within this area, engagement practices between the Indigenous minority and the mainstream majority function considerably better in New Zealand than they do in Western Australia. This is true both for measures deemed important by actors themselves, such as eg. the retention of Indigenous children within the educational system and the inclusion of all societal groups within the same system¹⁴⁸. But also a qualitative measure based on deliberative ideals suggests that the New Zealand educational system fares better.

This conclusion is based on a number of indicators. The WA Curriculum Framework is an impressive policy document in terms of articulating ideals of 'democracy' and 'active citizenship'. Nevertheless, it is in one perspective a rhetorical policy document; and while it has been developed in cooperation with stakeholders also outside the State Government system, those stakeholders are to a large extent those identified by the Department of Education itself. Furthermore, the sheer level of detail within the Framework impedes the room for manoeuvre in individual schools. In comparison, the New Zealand curriculum leaves many more decisions to individual

¹⁴⁸ This is not to deny that there is room for improvement also within the New Zealand system in terms of being inclusive of Maori school children.

schools. But what is more important in this connection is the fact that the New Zealand Ministry of Education continually develops new programs in cooperation with stakeholders, and is very proactive in terms of seeking input to policies and frameworks. Furthermore, the ministry is geared to tailoring individual solutions to iwi. As ME suggested, it would be naïve to consider this a relinquishment of control, and while one NZEI representative suggested that te Kohanga reo slipped under the ministry's radar in the early 1980s, this does not seem a likely scenario in post-2000 policies. The ministry is attuned to change, whether one would interpret this as first and foremost a deliberative gesture, or more being a question of wishing to retain control. The quote below, however, does suggest willingness to devolve responsibility and control.

An important part of this work is to enable a more inclusive approach for thinking about how positive change can be effected within education. This means that the Ministry becomes one part of a wider group who can contribute to achieving better outcomes, rather than the only group.¹⁴⁹

In terms of concrete suggestions for improvement in Western Australia based on evidence presented in Part III, the most obvious would be to try to emulate New Zealand Ministry of Education practices when engaging with Aboriginal parents and other stakeholders within the educational system. While JH's comment that at the moment the Western Australian Department of Education was trying to 'fit a square peg into a round hole' may be a little harsh, greater room for individual (tribal/geographic) wishes may go a long way in terms of ensuring future success also for the State Government schooling system. The first impediment would be the pronounced lack of trust between the Government and many Aboriginals, which was pointed out both by stakeholders within and outside the governmental system. This is a question that needs to be addressed directly, and one starting point might be to develop closer cooperation with the already established non-governmental schools within the AICS system. RS from the Department of Education pointed out how bizarre it was to have both CAPS Coolgardie and a government primary school in such a small town as Coolgardie (ca. 1200 inhabitants). An obvious step would be for the Ministry to encourage cooperation within selected areas, with the specific aim of fostering trust.

¹⁴⁹ This is the last sentence from 'Iwi partnerships facts sheet', appendix g.

However, no easy solutions are available, and while the New Zealand Ministry of Education has been successful in bringing te Kohanga reo and kura kaupapa Maori within its reach, the federal/state structure in Australia also impacts on the relationship between governmental and non-governmental schools in this setting.

From the outset, the sphere of education was perhaps the least self-evident of Addis' three suggested spheres of deliberation, at least in terms of Habermas' emphasis, which is on governance (in fact, on 'law' in Habermas 1996) and media. However, it does make theoretical sense to view schools as a trial ground for children to practice their engagement skills and be a place where they will be exposed to other life perspectives and ideas than they might meet at home. From an empirical perspective, whether this is in fact a function schools perform, can best be evaluated by a long-term comparison of social interaction in societies with segregated versus integrated school systems. Based on interview evidence, however, a comprehensive integrated and inclusive schooling environment was deemed valuable by most respondents.

On the deliberative potential inherent in fostering such an environment, note should also be taken of the many policy documents and guidelines for schools and boards of trustees published in New Zealand. These documents not only contained suggestions for good engagement practices, but one of them even suggested that such practices could inspire other local forms of cooperation *outside* schools¹⁵⁰. This means that not only may schools have an educational function in imparting children with abilities to express their opinions and preferences and listen to those of others, but their parents, teachers, board members etc. may gain experiences in those fields as well, through cooperative practices developed in connection with school work. If such ideals are brought to life within the schooling environment, it is very important indeed to include the sphere of education in a qualitative assessment of deliberative practices within society. Not only in the sense that it fosters deliberating abilities in future citizens, but also because the sphere of education in itself is an important arena for debate about values and preferences in society.

¹⁵⁰ See The New Zealand Ministry of Education, 2000.

15.3 The media sphere

Within the media sphere there is also a marked difference between results from Western Australia and New Zealand. Here the difference mainly comes down to one empirical fact, namely that the mediascape in Western Australia is very narrow, because there is only one major daily newspaper produced within the state. This near monopoly on news makes it hard for alternative stories to reach wider groups of people in Western Australia. Alternative news sources such as Goolarri Media and Perth Indymedia do exist, but they are struggling both economically and in terms of the size of their audiences. While neither Mana News nor Aotearoa Indymedia were basking in success financially or in terms of audience size, the alternative media scene in New Zealand was much stronger than in Western Australia, and, in addition, mainstream media was much more varied and more inclusive of Indigenous viewpoints. CW, herself employed at The West Australian, readily acknowledged that ‘a lot of misconceptions’ exist in the wider population about Aboriginal affairs in WA. These misconceptions may not be eradicated by media alone, but one step on the way would be to have a more diverse media scene. The argument that a population of 1.6 million will only support one daily paper hardly holds in comparison with the size and variety of media in New Zealand with its 4 million inhabitants. The problem is who would finance such a newspaper or other news source. Government funding would not be a good option according to respondents on the alternative media scene, who were fearful of having their freedom of expression curbed. Nor may such competition be legal. Another option would be to encourage out-of-state papers to lower their prices. Either way, meddling with market forces is not an easy option for the Government to undertake in this area, even if the objective is democratically defensible. On the other hand, evidence from New Zealand suggests that government support for Maori media and language is effectful, although the situation hardly is comparable, as this support springs from court decisions based on Treaty of Waitangi obligations.

One easy solution to part of the problem would be to open schools for children to use the internet also outside normal school hours to search for information, as suggested by KF. If children were allowed to bring along their parents, they might even succeed in ‘marrying-in the old people’, as KF put it. In remote Aboriginal communities with little access to news and information about political decision-making, such a

gesture might go a long way in terms of overcoming obstacles to engagement. No big turn-around in inclusivity can be expected in the short term, especially if elders prefer sitting behind a screen or in the office garden when debating decisions, but as a long-term strategy it is likely to have at least some effect.

No measures within this area can stand alone if media depiction of Aboriginal affairs is to change in any substantial way. But creating an awareness both among journalists and government officials that things could be different, would be a step in the right direction. This awareness raising is potentially a job for Aboriginal interest organisations.

As Habermas' model has all along pointed to an open and diverse media scene as an important premiss in developing a deliberative democratic society, it would be a circular argument to conclude that Addis is right in pointing to this as an important sphere when evaluating deliberative practices. But another conclusion also springs from the comparative analysis of media in Western Australia and New Zealand in Part III. This is that even with a comparatively weak media sphere in terms of ensuring an encompassing dialogue about values and interests, the governance sphere can do a lot to foster a deliberative atmosphere, evidenced particularly by the proactive initiative in the Consulting Citizens guides from Western Australia. Arguably, the sheer fact that Western Australian media was so dominated by one news supplier in itself raised attention levels among government employees when wishing to engage with and hear the opinions of Aboriginal stakeholders. Various ministerial practices such as surveying local papers and consciously using radio bear testimony to this. Possibly, the obvious lack of competition for The West in itself generated this awareness. Mana News' struggle to gain access to government informants compared with Goolarri's relative success¹⁵¹ in obtaining commentaries from ministers could be explained in this way.

15.4 Further possible perspectives

All three of Addis' suggested spheres of deliberation have proved of importance in assessing the extent and quality of any possible deliberative practices occurring within the two settings under investigation in this study. One may further ask whether there are

¹⁵¹ Relative in view of the potential size of the audience for each of these alternative news outlets.

other spheres of potentially the same importance. Commentators on the study have remarked that it could be interesting to look for example at the health services in each setting, and respondents and commentators in Western Australia suggested an investigation of practices within the police force as part of the assessment of the level of democratic inclusivity.

The police force, however, is not constituted as an area in which values and principles are up for debate. On the contrary, the police are by definition employed to promote values and policies decided upon by government. That the police force in Western Australia might benefit from an internal debate about values and principles when engaging with Aboriginals is another matter. LD from the Anti-Racism Committee mentioned the police force as one of the pilot agencies in the implementation plan for the 'The Public Sector Racism and Equality Program'. But viewing law enforcement as an area for deliberation is hardly tenable if the aim is to ensure a stable democratic society.

Similarly, the health sector in each setting may benefit from an internal review of policies, in terms of being more inclusive of Indigenous practices¹⁵². But to regard it as an important area in which to develop deliberative practices aimed at strengthening a democratic culture would be to misjudge the primary function of this sector, namely to cure disease and promote health.

In this respect, the education sector holds a unique position within the government system in terms of imparting to future generations of citizens values and ideals that will ensure a stable democracy. While the work of all public agencies is based on ideals and values, the educational sector is unique in having been established to *promote and impart* such ideals and values. Therefore, this is an extremely important sector to look at, when assessing the potential for developing deliberative practices within any given society.

Being slightly different due to its (partly) private nature, media can be argued to also perform an educational role in society, in terms of letting citizens know about decisions and developments. Previously, this was the proudest aim of public media. Competition from private media and changes in media consumption patterns may have changed this, but education (and socialisation more broadly) is still one function among

¹⁵² This process is in fact taking place in New Zealand.

others undertaken both by private and public media. Furthermore, media may also in some instances provide itself as a vehicle for 'the man in the street' to have his opinions heard, and is thus one channel of access to express viewpoints for citizens. Use of this channel of expression may be distorted according to the socio-economic background of stakeholders. But rather than dismissing media on this basis, it would be a more fruitful approach to try to identify such barriers and attempt to remove them, so that overall access to express opinions may be enhanced.

Being the arena where most decisions affecting the greatest number of citizens are taken, the sphere of governance is self-evidently a very important arena to investigate when assessing the state of deliberation within any given society. Dryzek does warn that some areas for debate are perhaps better left outside the reach of government, in the sense that being incorporated into the bureaucratic system can stifle a debate. However, the notion of 'the sphere of governance' as employed within this study has been quite wide, in that it includes also extra-governmental modes of governance and attempts at influencing government, such as examples from Indigenous interest organisations or city councils. Provided one keeps a broad conception of their individual scope, the spheres of governance, education, and media are of the greatest importance in assessing deliberative practices.

The analyses in Part III have further demonstrated that it is important to look at the combined interactive effects of the three spheres. Considering the possibility for deliberative democracy as a question of ensuring access, opportunity, and ability to debate, it is clear that the aggregate effects of governance, media, and education are extremely important. Access is both a question of governmental structures, but also how governmental (and other) agencies utilise media to keep in contact with the citizenry. Likewise, opportunity depends both on actual policy review processes, but also on media information about policy developments and debates. Finally, the question of ability hinges crucially on the spheres of education and media, but also on governmental attitudes towards questions related to legitimacy and representation.

In this way, it is impossible to conceive of a purely governance based deliberative democracy without a free media actively contributing to democratic debates in society, or without an educational system seeking to endow future citizens with the abilities to conduct themselves within the democratic state.

Chapter 16: Evaluating and modifying theory

The introduction asked whether normative theories can be translated into models that are empirically applicable, and whether such a translation is relevant and constructive in assessing an empirical situation. It is the latter part of this question that will be taken up in this final chapter of the dissertation. Is the model of deliberative democracy relevant in assessing empirical situations, and what, if anything, can be gained from applying normative theory on empirical cases?

This question will be answered through a three-pronged approach. First, by asserting that a philosophical approach is relevant also in assessing empirical situations. Secondly, by discussing to what extent Habermas' ideal theory is grounded in sociological reality. Thirdly, by evaluating specific empirical findings in relation to the theory, and discussing how insight into theory and empirical situations can enrich each other.

The principal objection to liberal and communitarian views on minority rights as presented in the assessment in chapter 4, was that neither philosophical approach offer any practical working guidelines for how to implement minority rights in practice. Neither does Habermas' model of deliberative democracy present itself as readily applicable to empirical situations. Which leaves the question of whether a philosophical approach is at all relevant and constructive in investigating empirical situations. Normative theories are by nature ideal. Which means that such theories are not designed to describe how things *are*, but how they *ought* to be. This means that the premiss for introducing normative theories in discussing an empirical situation is that it is considered an area in which improvements on the current situation can be imagined. The implication for this particular study is that 'room for improvement' can be identified in the discussion of whether and how to accommodate minority wishes and preferences in Western Australia and New Zealand. This was a point of view expressed by most respondents. Respondent selection for this study was based on actors actively interested in engaging across minority/mainstream divisions. Even if selection criteria have biased data towards an open approach to be more accommodating of minorities, this does not invalidate the observation that all respondents expressed the feeling that a more inclusive society could be achieved. Therefore, the application of a normative

theory *is* relevant in these empirical situations, provided it can be translated in a way that facilitates the development of analytic tools that are of practical relevance to actors in these engagement processes. The various practical suggestions made in chapter 15 on how to enact the ideal bear testimony to how the ideal can be translated in an empirically relevant way.

16.1 Habermas and sociological reality

The argument above suggests that Habermas' theory is ideal¹⁵³, insofar as it is a normative theory. Therefore, an evaluation of to what extent the model of deliberative democracy is grounded in sociological reality is well-warranted. Even Habermas comments on the 'off-putting and unrealistic appearance' of deliberative politics (Habermas 1996: 321). The model of deliberative democracy is developed through a number of Habermas' publications, and has roots (among other things) in his work on discourse ethics and the historical development of the public sphere. Because only a 'limited version of Habermas' has been applied in this study (see chapter 5), the evaluation of the coherence between the model and sociological reality will concern itself only with those aspects of his theoretical complex actually employed.

In the introduction to Habermas' work in chapter 5, I wrote that 'Part of the problem facing anyone attempting to apply a "limited version of Habermas", is that not only are his contributions to philosophical, political, and social debate many and varied, they are also closely intertwined, and in many respects form a coherent whole even to the point that the man himself is part of his complex of ideas'. Habermas has throughout his career been concerned not only with philosophy and normative theory, but also very much with sociology and contemporary life in modern complex societies, and these interests interact in much of his work.

Even if normative theories are ideal, this does not mean that they cannot spring from or be relevant in an empirical context, which is evident in the following quote.

Consider for example, ecological questions concerning the protection of the environment and animals, questions of traffic control and city planning; or consider questions of immigration policy, the protection of cultural and ethnic minorities, or any question touching on the political culture. Such questions call for discourses that push beyond contested interests and values and engage the participants in a process of

¹⁵³ 'Ideal' in the philosophical sense of presenting how things ought to be, rather than in the commonsense understanding of the term as 'the best possible solution'.

self-understanding by which they become reflectively aware of the deeper consonances (Übereinstimmungen) in a common form of life. (Habermas 1996: 165)

Hoping for the discovery of ‘deeper consonances’ between citizens in complex plural societies may be optimistic, but the quote proves that Habermas’ concern to develop a model for fruitful co-existence in such societies does spring from real sociological concerns that are present in many modern democracies. The identification of the *need* for such dialogues is empirically well-founded – at least insofar as secession, war, and ethnic cleansing are rejected as solutions to problems of co-existence.

This does not mean that the model of deliberative democracy is easy to apply (see chapter 7) or without problems (see chapter 5). Several problems have been identified throughout this study, and suggestions for modifications of the theory based on empirical observations will follow below. A common critique of the model is that it requires too much from dialogue participants. Habermas is aware of this, and states that ‘Reaching mutual understanding through discourse indeed guarantees that issues, reasons, and information are handled reasonably, but such understanding still depends on contexts characterized by a capacity for learning, both at the cultural and the personal level’ (Habermas 1996: 324/25). In one perspective, this is an admission to his critics, but in another perspective, the empirical consequence of this observation might simply be to include an investigation and evaluation of how the education systems in modern democracies can be geared to fostering a deliberative environment in schools, and shape future citizens to have an open approach to engagement with people of diverse values and preferences. In this way, the gap between ideal theory and sociological reality might not be as wide as some critics believe.

The presentation of Habermas’s model of deliberative democracy in chapter 5 noted that in *Between Facts and Norms* (Habermas 1996), already the introduction comments on the link between philosophy and the empirical world. The ensuing discussion pointed out that Habermas goes too far in delegating power to parliament and formal government organs in this work. This is most likely done to meet previous criticism that his work has been too far removed from sociological reality. But the analyses in Part III have demonstrated that it is fruitful to keep a broader conception of the sphere of governance¹⁵⁴, rather than merely looking at parliament and formal

¹⁵⁴ For the concept of governance as applied in this study, see chapter 8, footnote 27.

government organs when evaluating deliberative mechanisms. Empirical evidence showed that much extra-governmental deliberation takes place within and between non-governmental and local steering organs, shaping sociological reality in modern democratic societies.

As debated in chapter 5, there are grounds to be sceptical of an all-out institutionalisation of deliberation. Dryzek (2002) raises the question of whether the public sphere may be depleted by moving all dialogues into political institutions. This reservation is important to include, because a depletion of the public sphere would run counter to the aims of the deliberative model. Habermas is aware of this dilemma, and writes that '[...] in complex societies the gap between the need for coordination and the lack of actual social integration, the gap politics and law is meant to close, only seems to grow increasingly wider the more the administrative system has to accept tasks that increasingly overburden the costly deliberative mode of decision making' (Habermas 1996: 321).

The dilemma of which issues should be left open for continuing public debate, and which issues need to be resolved so that political action can be taken, at bottom comes down to an inherent dilemma in the premisses for the masterless dialogue itself. Especially the latter part of the second premiss, 'Everybody can introduce and problematise any claim', points to the impossibility of closure to debates, insofar as *any* claim can be problematised – also claims on which policy development and implementation are based. The dilemma is this: masterless dialogues normatively speaking require openness and indeterminacy, whereas political reality requires closure and implementation. 'In short, the state becomes necessary as a sanctioning, organizing, and executive power because rights must be enforced, because the legal community has a need of both a collective self-maintenance and an organized judiciary, and because political will-formation issues in programs that must be implemented' (Habermas 1996: 134). In this quote, Habermas arguably sells out normative ideals to sociological reality. This is especially evident in comparison with the following quote by Elster.

[...] any agreement reached through deliberation is necessarily conditional, tentative, and revisable. And any such agreement represents '*a* common good' that is fashioned rather than discovered by parties to the deliberative process and that is only as legitimate as the process itself. So a plausible case for democratic deliberation must treat deliberative procedures themselves, and not just the outcomes they generate, as tentative and revisable (Elster 1998: 176).

Such a total relativisation of norms, however, results in a situation where no political decisions whatsoever can be reached, because both decisions as well as the procedure for discussing them are up for debate.

On the one hand, Habermas laments the fact that normative political theory has been pushed in the background by sociological investigations of political processes: ‘The sociological enlightenment seems to recommend a disillusioning, if not downright cynical, view on the political process’ (Habermas 1996: 329). On the other hand, he also writes that ‘[...] the success of deliberative politics depends not on a collectively acting citizenry but on the institutionalization of the corresponding procedures and conditions of communication, as well as the interplay of institutionalized deliberative processes with informally developed public opinions’ (Habermas 1996: 298). This means that Habermas is attuned to sociological and political reality, while maintaining that normative political theory still has something to offer social practices of communication and engagement. The analyses of such engagement practices in this study have proven that his focus on the interplay of institutionalised deliberative processes with informally developed public opinions corresponds with empirical reality. There are many factors at work in this interplay process, some of which can be deduced from a purely theoretical perspective, and others which have only become obvious through the empirical analyses. How these insights into sociological reality may contribute to a modification of the theory of deliberation is the subject of the ensuing subchapter.

16.2 Theory modifications

The third approach to answering whether anything can be gained from applying normative theory to empirical cases, is to evaluate specific empirical findings in relation to the theory, and discuss how insight into theory and empirical situations enrich each other. Part III already included comments in cases where empirical evidence pointed to factors that are absent from Habermas’ theory (for example the emphasis put on family relations when assigning authority to Indigenous representatives in decision-making processes), but also comments when empirical practice seemed to follow Habermas’ recommendations – either by default or through a reflected decision to be inclusive.

Examples include various consultative practices adopted by departments, ministries, and organisations.

This part of the conclusion will synthesise these remarks from Part III. Starting with examples of empirical practices that are in accordance with theory, a number of findings from Part III indicate that the model of deliberative democracy is applicable to empirical reality. The most pronounced example of this is the series of Consulting Citizens guides developed in Western Australia. The first of these guides specifically mentions the concept of deliberative democracy: ‘Genuine and credible consultation can contribute significantly to deliberative democracy, building trust and confidence in people and unleashing their potential as citizens’ (The Government of Western Australia, April 2002: 5). Even if the concept of deliberation does not figure prominently in any of the three guides, it does underpin the entire consultative approach. It is highly significant that this series of guides is written for the use of *all* government employees in the state, and it is of further importance that the guides are envisaged as also being of potential value for private organisations and NGOs engaging with stakeholders on various issues. This means that the model of deliberative democracy has inspired de facto governmental practices in WA, for instance in the way that government employees are encouraged to undertake citizen consultations.

In contrast with this, policy reviews undertaken by Te Puni Kokiri in New Zealand are not built on a notion of deliberation, and have been argued to be instances of post facto inclusivity. However, insofar as Habermas’ third premiss for the masterless dialogue (‘Everybody can introduce and problematise any claim’) points to the undesirability of closure to debates, this review practice *does* follow Habermas’ recommendations. But as a political strategy, it is hardly optimal, because it constitutes an obstacle to closure on policy implementation. In terms of New Zealand policy documents, the OTS publication *Healing the past, building a future* (OTS 2002) is much closer to being in accordance with the model of deliberative democracy. While the concept is absent from this document, requirements for understandable arguments and inclusion of relevant and mandated stakeholders approximate the theoretical ideal.

It was also quite remarkable to note from the data that even if policy documents may differ on their degree of approximation to a deliberative ideal, interview data on consultation practices obtained from various respondents in both settings was very

similar and showed great awareness of the need to be inclusive. Restating a point from chapter 11, the interviewed government employees had had many practical experiences in communicating with Indigenous people, and often had strong views on how to succeed with it. Although government employees are unlikely to consider themselves Habermasians, it is interesting that they appeared likely to come up with practical solutions to counter some of the theoretical obstacles Habermas warns about. Habermas' fourth premiss for the masterless dialogue ('Nobody may be prevented through force from exercising the right to participate in dialogues') matched certain initiatives. Interpreting force in this case as socio-economic power¹⁵⁵, it can be contingencies such as the fact that many Aboriginals are poorly educated and do not read well enough to wish to buy the newspaper.

Several examples related by respondents were simply, in their own view, commonsensical approaches to how to go about developing and implementing policies that would affect minority communities. Many of these 'commonsensical' approaches also made great sense when evaluated against a standard of deliberative democracy (for example telling stakeholders that a policy has been developed based on a combination of their own view and the view of 'Doris down the road'). This reinforces the conclusion above that Habermas' notion of deliberative democracy is not as far removed from sociological reality as some commentators would lead one to suspect.

Curricula developments in each setting also appeared to be results of consultative processes. In these cases, it was not only the *way* in which the policy documents had been developed but also to some extent their *content* (notably in the WA Curriculum Framework) that indicated a deliberative ideal, even if the concept itself was not directly used. Habermas is not particularly concerned in his writing with the role of the educational system in fostering deliberative democracy, and this empirical finding therefore adds to the theory. Policy documents generated within the educational sphere can in one perspective simply be regarded as yet another type of policy document. As such, deliberative procedures promoted both in the development and content of these documents support the observation that the model of deliberative democracy is not (always) far removed from empirical reality. A good example is the guidelines for boards of trustees developed in New Zealand. This document includes a

¹⁵⁵ For an explanation for this interpretation, see footnote 75 in chapter 11.2.

list of good consultation practices which apply to all parents, and an additional list specifically applicable to Maori parents. Particularly the list for all parents contains a number of points closely approximating a deliberative ideal, whereas the specific Maori list adds a number of items that would not have been expected from a purely theoretical approach to good consultation practices, but which are supported through the empirical findings of this study.

Schools made the following points about good consultation practices, which apply to consulting with all parents:

- The board should ensure that everyone has a clear understanding of what the consultation seeks to achieve. In particular, be clear about what the constraints are and what can be delivered.
- Consult as early as possible, and make sure that people receive the information they need to participate. The information should be easy to understand.
- Give people enough time to consider the issues before responding. Consultation can take a long time, and a series of gradual changes may be necessary.
- Be guided by the pace and direction that the community is comfortable with.
- Show that the school recognises and values people's contributions. Respond to parents' views and suggestions. They must see that consultation results in change, or if their ideas have not been acted on, they need to know the reasons for that.

Māori parents, trustees, and teachers also identified these important considerations when consulting with Māori parents and whānau:

- Kanohi ki te kanohi is essential.
- School leaders, including the principal and trustees, must be closely involved and lead the process.
- Māori should be given the opportunity to identify the issues and direction.
- Whānau and kaumātua should be involved.
- Use the marae as a venue for hui where appropriate.
- Respect Māori tikanga.
- Understand that Māori consultation and decision-making processes may need to occur outside of the school consultation processes and provide time for this to happen.
- Maintain an ongoing relationship with iwi, hapu, and marae when there are no specific issues to consult on. (New Zealand Ministry of Education, 2000: 12)

While these lists are framed in terms of good 'consultation practices', the conceptual jump to good 'deliberative practices' is not far. In this way, they support the analytic conclusion that certain aspects of the empirical practices investigated in connection with this study can be argued to follow a deliberative norm.

The third empirical area under investigation in this study, was the media sphere. Also here it is possible to find examples that support a deliberative reading of empirical practices, such as the following quote by K, involved in Aotearoa Indymedia.

K: [...] And I think the access to comment on something immediately, or to think about it and come back and discuss it, adds to the skills of the people working within those areas of debate. [...] that skill to debate without falling into the rhetoric. And now there is a forum available where somebody will post something, and you can actually – you can choose to argue in a rhetorical sort of way, or you can choose to develop that skill and actually *debate* it. Saying ‘well, I have this argument and I back it up with this sort of information’.

- Such an approach to dialogic engagement approximates a Habermasian discourse ethics. In many of his writings, Habermas has pointed to the importance of a vibrant media able to engage the public in ongoing discussions about values and preferences in society. Consequently, the media sphere was from the outset considered an important part of the empirical investigations, and therefore the conclusion that the media do indeed perform an important role in contributing to a deliberative environment is not surprising. However, the above example of an interactive media form indicates micro-level opportunities for deliberation that would not have been immediately obvious from a purely theoretical approach to the deliberative potential of media.

Besides these examples of empirical reality (partly) conforming with theory, an even longer list of examples can be generated from the analyses in Part III detailing instances where data has added to the theory or contributed with insights that would not have been expected from a non-empirical approach.

Habermas does not speak about interest in participating in dialogic interaction among stakeholders when presenting his premisses for the masterless dialogue. However, this is an implied premiss that is discernible even before an empirical application is attempted. Hence the conclusion in chapter 10 that interest is both important and present, does not make a great contribution to the theory of deliberative democracy. The pragmatic reasons identified in chapter 10 for groups to enter into dialogue – that they may stand to gain in a material sense from such interaction – also add little to the theory in a normative sense (they may even be argued to subtract value from it). Parts of the data, however, also indicate that such dialogues are considered valuable in their own right. In this connection, the most surprising addition data has made to theory is the observation from New Zealand that even in a case where the court has actually *prescribed* dialogic interaction between government agencies and Maori, deliberative goals of ensuring an encompassing dialogue are met. In fact, much of the data from New Zealand indicates that institutional engineering works in terms of creating trust and ensuring ongoing dialogic interaction between groups. This is an

empirical finding of far-reaching importance. Both for future empirical practice, but also as a starting point for reviewing theories of democracy and inclusivity.

In general, institutional structures have throughout the analyses been shown to have a considerable impact on the scope and quality of any possible deliberation taking place. Some of the most notable empirical observations on this point are LD's comments about transferring the Anti-Racism Committee to sort under the Equal Opportunity Commission, to protect it under a statutory body, and SD's comments about slipping to Kohanga reo under the Ministry of Education's radar. The reason why these empirical examples have been singled out as having in unexpected ways contributed to theory, is that they both indicate the great complexity of the state bureaucracy – in the words of one respondent, it proves that 'the whole of government stuff is a beast', leading to problems of coordination. This means that even if it is possible already from a purely theoretical starting point to realise that institutional structures will impact on access and opportunity to deliberate, empirical evidence suggests that efforts to ensure access and opportunity will in individual cases have to be based on a detailed understanding of particular situated practices and structures.

A different addition to the theory of deliberative democracy has been made through analyses of data from the media sphere. The greatest contribution the study has made in this field is the observation that variety in numbers and types of media outlets impacts heavily on the quality of any ongoing debate, and that the use of various technologies (written news, radio, tv, internet etc.) for spreading information can impact on the population's ability to follow debates. Whether this observation should lead to political intervention in the media sphere is a question for politicians to decide. But it does add to the model of deliberative democracy that the existence of media in itself is not enough to ensure deliberation, media has to be evaluated qualitatively, because a narrow media sphere may possibly do more harm than good for deliberation.

Another example where empirical reality only partly followed theoretical expectations was on the question of the value of education for individual representatives. Chapter 5 showed that a high level of rationality is required from dialogue partners. Such rationality may not solely be obtained through education, and data showed remarkably little emphasis on the educational background of representatives in negotiations. However, it was also underlined that in some instances

‘a European style education’ might be critical. The most surprising finding in this connection was the remarkable and repeated emphasis put on the family background of representatives arguing a case on a group’s behalf. This occurred in both settings, and adds an entirely new perspective to the theoretical requirements on dialogue participants. In one sense, it further limits who can speak with authority for a particular group, because it means that representative authority in the eyes of the minority group will not only be based on merit but also on endowment. On the other hand, it subtracts from the burden of requiring prolonged education from spokespersons. Whether it is seen as a further limitation on who can speak in debates, or whether it is regarded as a loophole for a few people who might not have (or wish to have) a long education, it is a factor that is entirely absent from Habermas’ discussion. Because it was such a prevalent theme in both settings, it would be relevant to think it into a further development of the theory.

A related addition this study has made is through the focus on the education systems in the two settings. That the education system should be an important factor in assessing the possibility for deliberation in any given society is not immediately obvious from theory. Nevertheless, empirical evidence has proved that it does make a great deal of sense to view the educational sector as contributing in significant ways to the possibility for deliberation. This contribution is made not only through the actual teaching and experiences imparted to children within schools, but also through the processes of deciding the values that should be passed on. Thus, both settings promoted values of inclusivity not only in their curricula, but also in the delivery of teaching and the interplay with parents. The ideals and values expressed in these processes may not always be carried through in practice, but the potential for both student and parent involvement in dialogic interaction with and within the school system was present.

The greatest contribution this empirical study has made to the theory of deliberative democracy is the observation of how important various cultural practices are in designing and implementing a deliberative approach to policy developments. Examples here would include data indicating the importance of recognising traditional authority structures within Indigenous groups and for example making sure to communicate with tribal elders or kuia and kaumatua. Local tribal practices, such as stakeholders sitting behind each their screen when discussing issues of importance to

the community, may also have to be thought into the design of consultative processes. Other examples include the often expressed preference for meeting *kanohi ki te kanohi*, or face to face, which was an observation that held true for both settings.

Also the venue for meetings, such as The Orange Ballroom, marae, or individual local communities proved to be of great significance particularly for Indigenous stakeholders in debates. This can be regarded as a question of imposing costs on minorities vs. imposing costs on bureaucracies in debates, in the sense that minority communities may perceive meetings at a department or ministry as detracting value and authority from a decision, whereas departmental representatives are more likely to be worried about spending too much time on travelling and welcome ceremonies at marae etc. When Habermas warns that nobody may be prevented through force from participating in dialogue, he is not speaking about the force of tradition, departmental spending, or physical location and distance etc. Nevertheless, these obstacles have throughout the analysis proved to be of great importance.

Another obstacle to fruitful engagement not thematised by Habermas is the lack of trust between Indigenous communities and governmental agencies. In this respect, the model of deliberative democracy would gain from being expanded with some of the social capital literature on the importance of establishing trust between governmental agencies and citizens. One angle of approach to this would be to look at historical grievances, which to a large extent explain the lack of trust. While such an approach would serve to diagnose the problem, the cure, however, is more likely to spring from direct governmental efforts towards establishing trust, such as witnessed through for example the claims settlement processes in New Zealand or through the imposed cooperation between local iwi and city councils in the country.

Towards the end of chapter 4, Adeno Addis was quoted to the effect that ‘What I have termed *pluralistic solidarity* sees the development of public reason as one that emerges out of the dialogue among various communities and traditions where these communities and traditions have the necessary resources to engage each other in a dialogue’ (Addis 1997: 133, original emphasis). Analyses in Part III and the above enumeration of empirical contributions to the theory of deliberative democracy have demonstrated that the notion of ‘necessary resources’ calls for a very wide

interpretation. It should include considerations of at least the following list of diverse and more or less abstract types of resources.

- **Local institutional structures** (eg. liaison functions, statutory bodies, geographical placement etc.)
- **Possibility of institutional engineering**
- **Review and consultation practices**
- **Time set aside to deliberate**
- **Timing of deliberation**
- **Education and family background of discussants**
- **New and traditional authority structures** (election vs. appointment, legitimacy)
- **Cultural preferences for debate forms etc.** (oral or written, venue for meetings etc.)
- **Variety in form and content of media** (mainstream and alternative, use of technology)
- **An inclusive educational system** (non-segregated neither ethnically nor socio-economically)
- **Trust**

In sum, these ‘resources’ indicate elements currently lacking in the model of deliberative democracy. Even if the case studies that form the basis of this dissertation are centred in a specific geographic region, the model for analysis developed and applied in this work is generalisable to other national settings that can be described as modern, plural, and liberal democratic. Therefore, the list of points to take into consideration in a future modification of the theory of deliberative democracy is likely to be relevant for all such settings. Adding these elements to the theory of deliberative democracy would greatly enhance possibilities for its successful practical implementation.

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